

CITY OF TORONTO

and

PROPONENT

SUBLEASE

175 Cummer Avenue, Toronto, Ontario

THIS SUBLEASE made as of the ____ day of _____.

IN PURSUANCE OF the Short Forms of Leases Act

B E T W E E N:

CITY OF TORONTO

(hereinafter called the “**Sublandlord**”)

OF THE FIRST PART

- and -

PROPONENT

(hereinafter called the “**Subtenant**”)

OF THE SECOND PART

WHEREAS:

In consideration of the premises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Party, the Parties covenant and agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.1 Definitions

The terms defined herein shall have for all purposes of this Sublease and of all agreements or other subsequent instruments, implemental or confirmatory or amendatory hereof now or hereafter entered into in accordance with the provisions hereof, the following meanings unless the context expressly or by necessary implication otherwise requires:

“**Additional Rent**” means any and all amounts, other than Basic Rent, required to be paid by the Subtenant under this Sublease, whether or not same are designated “Additional Rent” or whether or not the same are payable by Sublandlord;

“**Affiliate**” of any Person means, at the time the determination is being made, any other Person Controlling, Controlled by or under common Control with, that Person, whether directly or indirectly;

“**Affordable Housing**” means rental housing that is operated in accordance with the terms of the Contribution Agreement;

"Applicable Fire Authorities" shall have the meaning given in Subsection 5.2.1(b);

"Applicable Laws" shall mean, collectively, all federal, provincial, regional, local and municipal statutes, laws, by-laws, codes, rules, orders (including court orders) and regulations in effect from time to time during the Term and made or issued by Governmental Authorities having jurisdiction over the parties hereto, the Work, the Demised Premises, the Lands, the Building, and the Subtenant's use of any of them;

"Arbitration" means that the specified dispute is to be resolved pursuant to the *Arbitration Act, 1991*, S.O. 1991, c. 17 or any successor thereto. Each party is to bear its own costs and share equally in the fees and expenses of the Arbitrator and Arbitration, unless otherwise awarded by the Arbitrator. The parties hereby expressly agree that the provisions of the *Municipal Arbitrations Act*, R.S.O. 1990, c. M.48 relating to arbitrations shall not apply;

"Article", **"Section"**, **"Subsection"** or **"Paragraph"** means the specified Article, Section, Subsection or Paragraph of this Sublease;

"Basic Rent" means the rent payable pursuant to Section 3.2;

"BCA" means an inspection and study of the Demised Premises, commonly known as a "building condition assessment", to determine the anticipated costs of major repair and replacements expected to be required, over the term of the Sublease in order to maintain the Demised Premises in the condition as required under this Sublease, including any update thereof from time to time and where used herein shall refer to the most recent BCA or update thereof;

"Building" means the 59 unit affordable housing rental building constructed, on behalf of the Sublandlord, on the land and all other improvements including, without limitation, the Building Systems, all fixtures, fixed machinery, accessories and equipment or other facilities, installations, alterations, additions, renovations, mechanical, electrical and utility installations which in each case are permanently affixed thereto or permanently situated thereon or are of a permanent nature that are used in connection therewith from time to time and which together with the land forms the Demised Premises;

"Building Systems" means: (a) all heating, ventilating, air conditioning, climate control and humidity control equipment and systems serving the Demised Premises; (b) other systems, services, installations and facilities installed in or servicing the Building including, without limitation, the following systems, services, installations and facilities: mechanical, plumbing, sprinkler, drainage and sewage, elevators, electrical and other utilities, lighting, life safety (including fire prevention, detectors, safety system testing and plans, communications, security and surveillance), computer (including environmental, security and lighting control), ice and snow melting, refuse removal, window washing and music; (c) all machinery, appliances, equipment, apparatus, components, computer software and appurtenances forming part of or used for or in connection with any of such systems, services, installations and facilities including, but not limited to, boilers, motors, generators, fans, pumps, pipes, conduits, ducts, valves, wiring, meters and controls, and the structures and shafts housing and enclosing any of them; and (d) all Sublandlord owned or controlled telecommunications facilities, pathways, installations and equipment on or forming part of the Building or the land described in Schedule "A";

"Capital Repair" shall mean all repairs and replacements of a capital nature to the structural elements of the Building comprising the roof or any component thereof such as a roof membrane

or roof deck, sub-floors, foundations, load-bearing walls and structural supports of the Building to the heating, ventilating, air conditioning, climate control and humidity system, plumbing, utility, fire safety systems supplied to the Building and other Building Systems including elevators, electrical, mechanical and plumbing, all as determined necessary or desirable in the reasonable discretion of the Sublandlord. For greater certainty, the determination of what constitutes a Capital Repair from time to time shall be in the sole reasonable discretion of the Sublandlord based on what is normally treated in accordance with then current capital budget guidelines of the Corporate Finance Division of the City of Toronto, as being capital in nature and failing same, in accordance with generally accepted accounting practices;

“CMHC” means Canada Mortgage and Housing Corporation and any successor thereto;

“Commencement Date” means **[DATE]**

“Control” means, with respect to any Person at any time, the possession, directly or indirectly of the power to direct or cause the direction of the management or policies of such Person, whether through the ability to exercise voting power, by contract, by virtue of being (or Controlling) the general partner, manager, managing partner, board of managers, board of trustees or board of directors of such Person, or by virtue of the beneficial ownership of or control over a majority of the economic interest of such Person or otherwise; and each of **“Controlled by”** or **“Controlling”** has a corresponding meaning;

“Contribution Agreement” means the Contribution Agreement to be entered into between the Subtenant and the Sublandlord, concurrent with the execution of this Sublease, with respect to the operation of the affordable housing units located on the Demised Premises and all schedules attached thereto;

“Demised Premises” means that part of the Lands comprised of Parts 1 and 2 on Plan 66R-31734, being the area shown outlined in a heavy bold black line on the plan attached in Schedule “A” and shall include the Building and Building Systems;

“Deputy City Manager” means the Deputy City Manager – Corporate Services for the Sublandlord, or such person's successor(s) or designate(s) from time to time;

“Event of Default” has the meaning given in Section 11.1;

“Emergency” means an unforeseen situation that poses an immediate and serious risk to health, life, property or the environment or access to essential services (including but not limited to water, electricity, heat and sanitary services) and necessitates immediate action;

“Environmental Laws” means all Applicable Laws relating to the Environment and occupational health and safety matters, including without limitation those related to the Release and threatened Release, and to the generation, use, storage, treatment, disposal or transportation of any Hazardous Substances, including, the *Environmental Protection Act*, R.S.O. 1990, c. E.19 (Ontario) as same may be amended, modified, or replaced from time to time;

“Fire Prevention Act” shall have the meaning given in Subsection 5.2.1(b);

“Force Majeure” means strikes, labour troubles, inability to procure materials or services, power failure, riots, insurrection, sabotage, rebellion, actions of military or civil authorities, wars,

revolutions, and terrorism, act of God, epidemics and quarantines, or other reason whether of a like nature or not, which is not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement. In no event shall the Subtenant's inability to pay any money due under this Sublease be considered a "Force Majeure" event or otherwise relieve the Subtenant of its obligation to make payment as required under this Sublease;

"Governmental Authority" means any federal, provincial, municipal, county or regional government or governmental authority or other law, regulation or rule making entity, and includes any court, department, commission, bureau, board, administrative agency or regulatory body of any of the foregoing;

"Hazardous Materials" means and includes: (i) any asbestos, PCBs or dioxins, or insulation or other materials composed of or containing asbestos, PCBs or dioxins; (ii) crude oil or any fraction thereof, any natural gas, liquefied natural gas or synthetic gas; or (iii) any pollutant or contaminant or any hazardous, toxic, dangerous or subject waste, substance, material or recyclable as those terms are defined under Environmental Laws or in or under any Applicable Laws regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, dangerous or subject waste, substance, material or recyclable, as now or at any time hereafter in effect;

"Hazardous Materials Activities" shall have the meaning given in Section 6.12;

"Headlandlord" means Toronto Community Housing Corporation, and its successors and assigns;

"Headlandlord Lands" means that portion of the Lands (including all structures and encumbrances thereon from time to time) not consisting of the Demised Premises;

"Headlease" means the Lease Agreement between the City of Toronto and Toronto Community Housing Corporation dated [DATE].

"Hereof", "hereto", "hereunder" or similar expressions means this Sublease and, where relevant, the particular Article, Section, Subsection or Paragraph of this Sublease;

"HST" means all harmonized taxes, goods and services taxes, sales taxes, value-added taxes, multi-stage taxes, business transfer taxes and any other taxes (however they are characterized) imposed in respect of the Rent payable by the Subtenant, the rental of space by the Subtenant or the provision of any service to or by the Sublandlord under this Sublease;

"Lands" means the lands known municipally as 175 Cummer Avenue, Toronto, Ontario, as legally described in Schedule "A";

"Licensee" means any Person who enters into any further sublease, or licence or other occupancy agreement with the Subtenant related to the Residential Units in any building on the Demised Premises;

"Licence Agreement" means an agreement between the Subtenant and a Licensee;

"Occupants" means collectively:

- (a) the Subtenant and its agents, contractors, employees and invitees from time to time; and
- (b) all Licensees and occupants of the Demised Premises from time to time, and their invitees;

"Ontario Fire Code" shall have the meaning given in Subsection 5.2.1(a);

"Parking Proportionate Share" means the ratio that has as its numerator the number of Subtenant Parking Spaces and as its denominator the total number of parking spaces located on the Landlord Lands;;.

"Parties" means the Sublandlord and the Subtenant and their respective successors and permitted assigns; and **"Party"** means any one of the Parties;

"Person" means any individual, partnership, corporation, trust, unincorporated organization, municipality, government, or governmental agency or any combination thereof;

"Plans and Specifications" means the plans and specifications prepared or to be prepared for or on behalf of the Subtenant for any reconstruction, renovation and/or additions to the Building, as the case may be;

"Release" means any release, discharge, deposit, emission, leak, spill, pumping, pouring, emptying, injecting, escaping, seepage, leaching, migrating, dispersing, disposing or dumping;

"Required Work" shall have the meaning in Section 6.11;

"Rent" means Basic Rent and Additional Rent;

"Reserve Fund" has the meaning set out in Section 6.5(1);

"Reserve Fund Account" has the meaning set out in Section 6.5(1);

"Residential Units" means the living units within the Demised Premises described in Section 3.7 below;

"RTA" means the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17, all regulations and any successor or replacement legislation;

"Sublandlord" means the City of Toronto and its successors and assigns;

"Sublease" means this Agreement and all amendments thereto in writing that may be agreed upon by the Sublandlord and the Subtenant from time to time;

"Sublease Year" means the twelve-month period commencing on the Commencement Date or if such date is not the first day of the month, then on the first day of the month next following;

"Subtenant" means [Proponent's name], its successors and permitted assigns;

"Subtenant Parking Spaces" means the two (2) parking spaces outlined in red on the plan attached hereto in Schedule "A";

"Subtenant's Representatives" means the Subtenant's employees, agents, contractors, Licensees, invitees and other authorized occupants of the Demised Premises;

"Taxes" means all taxes, rates, duties, charges, assessments, impositions, levies, charges for local improvements and/or licence fees imposed by any authority having jurisdiction, including but not limited to federal, provincial, regional, municipal or other government, agency, board or commission, general and special, ordinary and extraordinary, foreseen and unforeseen, whether or not liability for same exists as of the date hereof, of every nature and kind whatsoever upon or in respect of the Property and/or the Lands, Tenant's occupancy thereof, the existence or operation of the Property and/or the Lands or any part(s) thereof, whether real or personal property and any taxes or other type of levy imposed on the City or Tenant or anyone else on account or in lieu thereof, by any authority having jurisdiction, whether or not forming a charge on the Property and/or the Lands itself, and any other taxes, rates, duties or assessments which may hereinafter be levied in lieu of, or of a nature similar to the foregoing, and whether recurring annually or at other intervals or on a special or single instance basis only, and any business taxes, business occupancy taxes or other taxes levied against the City and/or the Tenant and attributable to the Property and/or the Lands, in whole or in part and, without limiting the generality of the foregoing, any applicable commercial concentration tax, any business occupancy tax and any applicable goods and services tax, harmonized sales tax, value added tax, retail sales tax, Carbon Tax, or any other or similar taxes which may in the future be imposed from time to time, whether or not same are exigible as at the date hereof, all the above to be paid by Tenant to the proper authorities as and when due. Notwithstanding the foregoing, the Demised Premises will be the subject of an exemption from taxation for municipal and school purposes (municipal property taxes) for the term of the Sublease in accordance with the terms of the Contribution Agreement;

"Term" means the period commencing on the Commencement Date and expiring at 11:59 p.m. on _____, unless earlier terminated in accordance with the terms of this Sublease;

"Toronto Fire Services" shall have the meaning given in Subsection 5.2.1(b);

"Transfer" means an assignment or sublet of this Sublease or any transaction whereby the rights of the Subtenant under this Sublease or to the Demised Premises or any part, are transferred, any transaction by which any right of use or occupancy of all or any part of the Demised Premises is conferred upon a third party, any encumbrance of this Sublease or the Demised Premises or any part thereof or other arrangement under which either this Sublease or the Demised Premises become security for any indebtedness or other obligations and includes any transaction or occurrence whatsoever (including, but not limited to, receivership proceedings, seizure by legal process and transfer by operation of law);

"Transferee" means the Person or Persons to whom a Transfer is or is to be made;

"TSSA" shall have the meaning given in Subsection 5.2.2(a); and

“Work” shall mean any renovation, replacement or capital repair of the Building or any part thereof, including all ancillary services thereon or connected therewith and the provision of all labour, materials, tools, machinery or equipment related thereto.

ARTICLE 2 DEMISE AND TERM

Section 2.1 Demise of Demised Premises

(1) In consideration of and subject to the Rent reserved and the covenants and conditions herein contained and in the Contribution Agreement on the part of the Subtenant to be paid, performed, observed and complied with, and subject to Section 2.2 below, the Sublandlord hereby demises and sublets to the Subtenant, and the Subtenant hereby subleases from the Sublandlord, the Demised Premises to have and to hold during the Term, unless and until sooner terminated as expressly provided herein, together with:

- (a) an easement or right in the nature of an easement to and in favour of the Subtenant, as an appurtenance to and for the benefit of the Demised Premises, in, on, over and through those parts of the Headlandlord Lands required for the installation, use, operation, maintenance, repair and replacement of the network of pipes connecting the underground stormwater tank situate on the Demised Premises to the City of Toronto municipal stormwater drainage system;
- (b) an exclusive license to and in favour of the Occupants to use and enjoy the Subtenant Parking Spaces; and
- (c) a non-exclusive license to and in favour of the Occupants for pedestrian and vehicular access by the Occupants over those parts of the Headlandlord Lands necessary for ingress and egress to and from the Demised Premises and the Subtenant Parking Spaces;

(2) The Subtenant acknowledges that it has carefully examined the Demised Premises and hereby declares that it is accepting the Demised Premises in their present state of repair and condition on an "as is, where is" basis, except as explicitly provided in this Sublease.

(3) Each of the Sublandlord and the Subtenant covenant and agree to perform, fulfil and observe the covenants, obligations and conditions herein contained to the extent they bind or are expressed to bind the Sublandlord or the Subtenant, respectively.

(4) The Subtenant acknowledges and agrees that the Headlandlord Lands do not form part of the Demised Premises and further acknowledges that the Sublandlord has already granted to the Subtenant the right to use and access the Headlandlord Lands in common with the Headlandlord and all others authorized by the Headlandlord from time to time. For greater certainty, the Headlandlord shall not be obliged to make the Headlandlord Lands available to the public.

Section 2.2 Excluded Areas [NTD: as applicable]

Notwithstanding anything else contained herein, the Subtenant acknowledges that as of the Commencement Date, the Subtenant shall not have access to, possession or use of:

- (a) those areas of the Building (the "**Restricted Interior Areas**") that are excluded from the partial occupancy permit [INSERT PERMIT/REFERENCE NUMBER] issued on [DATE]. The Subtenant acknowledges receipt of a copy of said partial occupancy permit; and
- (b) such exterior areas of the Demised Premises (the "**Restricted Exterior Areas**"), as may be required by the Sublandlord, for the purposes of performing ongoing work to fulfill the notice of approval conditions for the Site Plan Application for the Demised Premises;

(collectively the "**Excluded Areas**") until such time as, in the case of the Restricted Interior Areas, the Sublandlord provides notice in writing to the Subtenant that an occupancy permit has been issued in respect of the Restricted Interior Areas, and in the case of the Restricted Exterior Areas, that the notice of approval conditions have been fulfilled.

Section 2.3 Right to Terminate

(1) Notwithstanding anything to the contrary in this Sublease, at any time during the last five (5) years of the Term, the Sublandlord shall have the right to terminate this Sublease upon giving at least one (1) year's written notice (the "**Termination Notice**") to the Subtenant of such termination. The Termination Notice shall specify the termination date (the "**Termination Date**"). If the Termination Notice is given, then, the following shall apply:

- (a) the Sublease shall terminate on the Termination Date and the Subtenant shall make best efforts to deliver vacant possession of the Residential Units, subject to the RTA, and deliver vacant possession of the remainder of the Demised Premises, to the Sublandlord on the Termination Date in accordance with the applicable provisions in this Sublease, including, without limitation, ARTICLE 7, all without payment or compensation of any kind from the Sublandlord;
- (b) the Subtenant shall be responsible for the payment of all Rent and other charges to and including the Termination Date including all Rent and other charges in respect of any period prior to the Termination Date which are subsequently billed or adjusted after the Termination Date; and
- (c) neither party shall have any further liability or obligation to the other after the Termination Date except for the Subtenant's obligations under this Section 2.3, Section 6.12, ARTICLE 8 and those provisions intended to survive the termination of the Sublease in accordance with Section 15.15, and except for any default under the Sublease by the Subtenant occurring on or before the Termination Date, all of which liabilities and obligations shall continue to survive.

(2) The acceptance by the Sublandlord of arrears of Rent or compensation for use or occupation of the Leased Premises after the Termination Notice referred to in Section 2.3(1) has been delivered shall not operate as a waiver of the Termination Notice or as a reinstatement of the Sublease or as a creation of a new lease, unless the parties so agree in writing.

Section 2.4 Right to Terminate – Zoning Appeal

(1) Notwithstanding anything to the contrary in this Sublease, in the event that any review or appeal of City of Toronto By-law 818-2022, "To amend Zoning By-law 569-2013, as amended,

with respect to lands municipally known in 2021 as 175 Cummer Avenue.”, or of a decision of the Ontario Land Tribunal or a court in respect of said by-law, results in a decision by a court or by the Ontario Land Tribunal that, in the opinion of the Sublandlord acting reasonably, may have a material adverse impact on the ability of either the Sublandlord or the Subtenant to carry out any of its obligations under this Sublease or the Contribution Agreement, the Sublandlord shall have the right to terminate this Sublease upon giving at least 120 days’ written notice (the “**Termination Notice**”) to the Subtenant of such termination. The Termination Notice shall specify the termination date (the “**Termination Date**”). If the Termination Notice is given, then, the following shall apply:

- (a) the Sublease shall terminate on the Termination Date and the Subtenant shall make best efforts to deliver vacant possession of the Residential Units, subject to the RTA, and deliver vacant possession of the remainder of the Demised Premises, to the Sublandlord on the Termination Date in accordance with the applicable provisions in this Sublease, including, without limitation, ARTICLE 7, all without payment or compensation of any kind from the Sublandlord;
 - (b) the Subtenant shall be responsible for the payment of all Rent and other charges to and including the Termination Date including all Rent and other charges in respect of any period prior to the Termination Date which are subsequently billed or adjusted after the Termination Date; and
 - (c) neither party shall have any further liability or obligation to the other after the Termination Date except for the Subtenant's obligations under this Section 2.3, Section 6.12, ARTICLE 8 and those provisions intended to survive the termination of the Sublease in accordance with Section 15.15, and except for any default under the Sublease by the Subtenant occurring on or before the Termination Date, all of which liabilities and obligations shall continue to survive.
- (2) The acceptance by the Sublandlord of arrears of Rent or compensation for use or occupation of the Leased Premises after the Termination Notice referred to in Subsection 2.4(1) has been delivered shall not operate as a waiver of the Termination Notice or as a reinstatement of the Sublease or as a creation of a new lease, unless the parties so agree in writing.

ARTICLE 3 RENT

Section 3.1 Covenant to Pay Rent

The Subtenant agrees to pay Basic Rent and Additional Rent as herein provided.

Section 3.2 Basic Rent

- (1) The Subtenant shall pay to the Sublandlord at the office of the Sublandlord, or at such other place designated by the Sublandlord, in lawful money of Canada, without any prior demand therefor and, unless otherwise expressly set out herein, without any deduction, abatement, set-off or compensation whatsoever, as Basic Rent, annual rent equal to SEVENTY-THREE THOUSAND NINE HUNDRED AND EIGHTY-SIX DOLLARS (\$73,986.00) per annum, in equal monthly installments of SIX THOUSAND ONE HUNDRED AND SIXTY-FIVE DOLLARS AND FIFTY CENTS (\$6,165.50), such payments to commence on **FIRST DAY OF THE THIRD**

MONTH FOLLOWING THE COMMENCEMENT DATE], and continue for the duration of the Term.

(2) In the event that an Event of Default, as set out in ARTICLE 11 of this Sublease, occurs which Event of Default subsists beyond any applicable cure periods set out therein, then, from and after the occurrence of such default and until such time as such default is corrected, and in addition to any other rights and remedies of the Sublandlord under this Sublease, the Subtenant will be responsible for the payment of basic rent equal to the then current fair market rent for the use of the Demised Premises as a residential building as permitted under this Sublease, as of the time when the Sublandlord invokes its rights herein to receive payment and to be agreed to by the Sublandlord and the Subtenant. If the Sublandlord and Subtenant cannot reach agreement, as to the basic rent payable, within three months of when such basic rent becomes due and payable, then the basic rent payable will be determined by Arbitration. The Sublandlord and the Subtenant will each pay one-half of the fees and expenses of the Arbitration (except for the separate costs of each of the Parties. For certainty, upon correction of the Event of Default in question, the obligations of the Subtenant under this subparagraph shall cease to apply.

Section 3.3 Additional Rent

Subject always to the terms and conditions of the Contribution Agreement and compliance by the Sublandlord with the provisions thereof, the Subtenant shall pay to the Sublandlord, or to the appropriate parties as designated by the Sublandlord, when due, at the Subtenant's sole expense and for its own account from and after the Commencement Date:

(1) each and every instalment of Taxes on the Demised Premises or any part thereof, if applicable;

(2) all utility charges and rates and similar taxes, rates, charges and assessments including payments in lieu thereof which are properly charged, levied or assessed in connection with the Demised Premises or any part thereof or which are properly levied or assessed against the Tenant or which would, if unpaid, become a lien on the Demised Premises or the Tenant's leasehold interest therein or where such lien will, at any time, affect the interest of the Landlord; and

(3) all of the other costs and expenses of maintaining and operating the Demised Premises, its services, equipment and facilities; such costs and expenses to include, without limiting the generality of the foregoing: Certificates of Property Use compliance costs, ground water discharge filtration system maintenance and repair costs, water gas, electricity, telephone, telecommunications, water heating, snow and ice removal and clearance, administrative charges and salaries, repairs and replacement of equipment, fixtures and facilities, landscaping contracts, grass cutting, lighting, cleaning, supplies, supervising;

(4) all costs associated with all legislated fire and life safety inspection, testing and maintenance obligations of the Sublandlord under Section 5.2.1;

(5) all costs incurred by the Sublandlord with respect to any Capital Repair to the Demised Premises, all such costs to be amortized over the useful life expectancy of the asset upgraded, repaired or replaced on a straight line basis and the Subtenant shall pay to the Sublandlord in each year of the Term the amortized amount of such cost within thirty (30) days after receipt of an invoice therefor from the Sublandlord;

(6) all costs incurred by the Sublandlord with respect to the Demised Premises or any obligations of the Subtenant under this Sublease, including costs and expenses related to any of the Sublandlord's obligations under this Sublease, which costs shall be provided to the Subtenant by notice in writing within ninety (90) days after the expiration of each Sublease Year together with reasonable details as to the breakdown and calculation of such costs, which costs shall be due within 30 days of the date of the notice in writing;

(7) the costs, at current rates from time to time, of all services (the "**Additional Service(s)**") provided by the Sublandlord or the Headlandlord to the Subtenant (plus an administrative charge of fifteen percent (15%) on such costs) at the Subtenant's request. Such Additional Services shall include services performed at the Subtenant's request including, without limitation any construction, maintenance, repair and replacement work to the Demised Premises or the Headlandlord Lands to accommodate generally at the request of or on behalf of the Subtenant that is not the responsibility of the Sublandlord (whether at its sole cost or otherwise) to provide under the terms of this Sublease. For greater certainty, the Subtenant acknowledges and agrees that the Sublandlord and the Headlandlord shall be under no obligation (and this provision shall not be interpreted to bestow onto the Sublandlord or the Headlandlord any obligation) to perform any Additional Services, unless the Sublandlord or the Headlandlord is expressly obligated to do so under the terms of this Sublease. For greater certainty but subject to Section 6.3(2), pursuant to the Headlease, the Headlandlord shall maintain, repair and replace (which maintenance shall, subject to Section 6.4(2), include without limitation snow clearing), at its sole cost and expense, those driveways and pathways located on the Headlandlord's Lands which may be used by the Subtenant and/or the Subtenant's Representatives from time to time;

(8) any other costs which are the responsibility of the Sublandlord as tenant under the Headlease; and

(9) any and all sums of money, charges or expenses required to be paid by the Subtenant pursuant to this Sublease other than Basic Rent, whether or not designated as "Additional Rent" or whether or not payable to the City or to any other Person.

The payments required to be made by the Subtenant pursuant to the provisions of this Sublease may be referred to as Additional Rent and shall be deemed to be rent, to be paid when due, and failure to make any such payments shall give the Sublandlord all of the same remedies as a failure to pay rent. The Subtenant shall indemnify and save the Sublandlord harmless from all losses, costs, charges and expenses arising from any Additional Rent, including but not limited to, any business taxes as well as any taxes that are imposed in place of business taxes or which are assessed against rentals payable under this lease in place of Taxes or business taxes, whether against the Sublandlord or the Subtenant.

Section 3.4 HST Payable

HST shall be payable on all Rent and or Additional Rent amounts, where applicable. The Subtenant will pay to the Sublandlord, at the same time as the amounts to which HST applies are payable, the full amount of all HST, with the intent that the Sublandlord be fully indemnified in respect of all HST payable or collectible by the Sublandlord. Despite anything else in this Sublease, HST will not be considered to be consideration for the rental of space or the provision of any service by the Sublandlord under this Sublease but will be considered to be Rent and the Sublandlord will have all of the same remedies for and rights of recovery with respect to such amounts as it has for non-payment of Rent under this Sublease or at law.

Section 3.5 Late Payment Charges/NSF Cheques

If any amount due and payable to the Sublandlord remains unpaid thirty (30) days after it is due, interest on the amount outstanding from time to time shall be paid to the Sublandlord at the rate of 2% per annum, calculated daily and compounded monthly until payment in full is received by the Sublandlord. The obligation of the Subtenant to pay interest in accordance with this subsection is without prejudice to any of the other remedies available to the Sublandlord, at law or otherwise. A charge of \$40.00 (the "NSF Fee") will be paid by the Subtenant for each cheque given by the Subtenant to the Sublandlord that is not honored by the bank on which it is drawn. The NSF Fee may be increased from time to time by the Sublandlord so that it is equal to the fee charged by the Sublandlord in respect of cheques tendered in payment of municipal tax and water charges that are not honored by the banks on which they are drawn, and the Subtenant agrees to pay the NSF Fee as it may be so increased from time to time.

Section 3.6 Net Sublease

The Subtenant acknowledges and agrees that it is intended that this Sublease is a completely carefree net Sublease to the Sublandlord, save and except as is otherwise provided for in this Sublease and/or the Contribution Agreement. The Sublandlord is not responsible during the Term for any costs, charges, expenses and outlays of any nature whatsoever arising from or relating to the Demised Premises including, without limitation, the Building, or the use and occupancy thereof, or the contents thereof or the business or operation carried on therein, and the Subtenant shall pay all charges, impositions, costs and expenses of every nature and kind whatsoever relating to the Demised Premises and the use thereof by the Subtenant including, without limitation, the costs of all insurance and all Taxes, save and except as is otherwise provided for in this Sublease and/or the Contribution Agreement.

Section 3.7 Nature of the Sublease and Application of the Headlease

(1) This Sublease shall be construed and deemed to be a commercial Sublease, notwithstanding that parts of the Demised Premises are used for residential purposes and may be considered "Rental Units" (as this term is defined under the RTA). The Subtenant itself will not occupy the Demised Premises as a residential tenant, although Persons may occupy portions of the Demised Premises as their residential premises (the "Residential Units"). The Sublandlord and the Subtenant acknowledge that Sublandlord shall not be considered to be a "landlord" as defined in the RTA in relation to the Subtenant's Licensees. The Sublandlord and the Subtenant specifically acknowledge and agree that the relationship of the parties herein shall be governed by the provisions of the *Commercial Tenancies Act*, R.S.O. 1990, c.L.7.

(2) The Subtenant acknowledges and agrees:

- (a) that this Sublease is subject to and subordinate to the terms of the Headlease and the Subtenant, and its permitted assigns and Licensees, are subject to all the rights and privileges of the Headlandlord under the Headlease in the same manner and to the same extent as the Sublandlord;
- (b) all terms, conditions, covenants and agreements contained in the Headlease shall apply to and be binding upon the parties hereto, and their respective successors and permitted assigns and Licensees, the appropriate changes of reference being deemed to have been made with the intent that such provisions shall govern the

relationship in respect of such matters as between the Sublandlord and the Subtenant. For greater clarity, the Subtenant, and its permitted assigns and Licensees, shall comply with all the terms of the Headlease, and in addition to the remedies contained herein, if the Subtenant, or its permitted assigns and Licensees, are in default under the Headlease, it shall constitute an Event of Default under this Sublease;

- (c) notwithstanding anything contained herein, the City shall have no duty to perform any obligations of the Headlandlord and shall under no circumstances be responsible or liable to Subtenant for any default, failure or delay on the part of the Headlandlord in the performance of any obligations under the Headlease, nor shall such default of the Headlandlord affect this Sublease waive or defer the performance of any of the Subtenant's obligations hereunder; and
- (d) whenever under the terms of the Headlease, the consent or approval of the Headlandlord is required, the Subtenant shall be required to obtain both the consent or approval of the Headlandlord and the Sublandlord.

Section 3.8 Waiver of Set-Off by Subtenant

Except as otherwise provided for in this Sublease and/or the Contribution Agreement, the Subtenant hereby waives and renounces any and all existing and future claims and rights of set-off against any Rent and other monies payable hereunder to the Sublandlord and agrees to pay such Rent and other monies payable hereunder to the Sublandlord regardless of any claim or set-off which may be asserted by the Subtenant or on its behalf.

Section 3.9 Sublandlord may Pay Taxes, etc.

If the Subtenant fails to pay when due any Rent and or Additional Rent required to be paid by the Subtenant pursuant to this Sublease, the Sublandlord shall have the right but shall have no obligation to pay the same at the expense of the Subtenant after thirty (30) days' prior notice to the Subtenant and the Subtenant covenants to pay to the Sublandlord forthwith upon demand as Rent any amounts so paid by the Sublandlord.

Section 3.10 Adjustment of Rent

If applicable, sums paid by the Subtenant under this Article 3 shall be subject to adjustment to reflect any partial billing periods encountered at the commencement or termination of this Sublease.

Section 3.11 Payments of Rent

All payments of Rent are payable in lawful money of Canada without deduction, abatement, set-off or compensation whatsoever, unless otherwise expressly set out herein. Additional Rent is due and payable as specifically provided in this Sublease.

Section 3.12 Payment of Additional Rent

Prior to the commencement of each Sublease Year, the Sublandlord shall estimate the amount of Additional Rent to be paid by the Subtenant to the Sublandlord for such Sublease Year and notify the Subtenant in writing of such estimate, providing reasonable details as to the breakdown and calculation thereof. The amount so estimated shall be payable in equal monthly instalments in advance on the first of each and every month over the Sublease Year. From time to time during

the Sublease Year, the Sublandlord may re-estimate the amounts payable for such Sublease Year, in which event the Subtenant shall pay in accordance with such re-estimates.

Section 3.13 Adjustment of Additional Rent

Within one hundred and twenty (120) days after the expiration of each Sublease Year, the Sublandlord shall make a final determination of Additional Rent to be paid by the Subtenant to the Sublandlord based on the actual costs incurred, and shall so notify the Subtenant, providing reasonable details as to the breakdown and calculation. If there has been a shortfall, the Subtenant shall pay to the Sublandlord the amount of such shortfall within sixty (60) days after delivery of the Sublandlord's notice. Any overpayment may be paid by the Sublandlord to the Subtenant without interest, or credited to the Subtenant's account and held by the Sublandlord without interest and applied to payments falling due under the Sublease.

ARTICLE 4 TRANSFERS

Section 4.1 Dealings by Sublandlord

The Sublandlord shall have the right to transfer, encumber or grant any right or interest in the Sublease or the Demised Premises, without notice to or consent of the Subtenant, provided that no such transfer, encumbrance or right shall interfere with, and the Subtenant, except as otherwise provided in this Sublease, shall be permitted to remain in quiet possession of the Demised Premises without interruption or disturbance from the leasehold mortgagee, assignee or purchaser so long as it is in good standing under this Sublease. Upon the request of the Sublandlord, the Subtenant shall execute any acknowledgements, agreements, or certificates confirming the terms of this Sublease and that the Sublease is in good standing.

Section 4.2 Transfer by Subtenant

Except as permitted by Section 5.1, the Subtenant shall not, without the prior written consent of the Sublandlord, which consent may be unduly delayed and unreasonably withheld, Transfer this Sublease or grant the use of the Demised Premises to any person, in whole or in part, and any such purported Transfer is void and of no effect. Any request for consent shall be accompanied by payment of the Sublandlord's processing fee for review of such requests, and by such information and documentation as reasonably required by the Sublandlord.

Section 4.3 Conditions of Transfer

(1) Prior to the written consent of the Sublandlord being obtained, no acceptance by the Sublandlord of any payments by a Transferee shall be deemed a waiver of the Subtenant's covenants or any acceptance of the Transferee as Subtenant or a release from the Subtenant from the further performance by the Subtenant of its obligations under this Sublease. Any consent by the Sublandlord shall be subject to the Subtenant and Transferee executing an agreement with the Sublandlord, in form and content satisfactory to the Sublandlord's solicitor, acting reasonably, agreeing that the Transferee will be bound by all of the terms of this Sublease and the Contribution Agreement and except in the case of a sublease, that the Transferee will be so bound as if it had originally executed this Sublease as Subtenant.

(2) Notwithstanding the effective date of any permitted Transfer as between the Subtenant and the Transferee, all Rent for the month in which such effective date occurs shall be paid in

advance by the Subtenant so that the Sublandlord will not be required to accept partial payments of Rent for such month from either the Subtenant or the Transferee.

(3) Any document evidencing any Transfer permitted by the Sublandlord, or setting out any terms applicable to such Transfer or the rights and obligations of the Subtenant or Transferee thereunder, shall be prepared by the Subtenant or its solicitors and all associated reasonable legal costs shall be paid by the Subtenant, subject to the Sublandlord's approval of the applicable form.

ARTICLE 5 USE

Section 5.1 Use and Management of Demised Premises

(1) The Subtenant shall use, manage and operate the Demised Premises solely, continuously and actively for the sole purpose of providing Affordable Housing, together with all ancillary uses related thereto, or benefitting or contributing to the principal use, including providing support services to residential tenants occupying Affordable Housing, in each case, in accordance with the requirements of the Contribution Agreement and this Sublease. The Subtenant shall not use or permit the use of the Demised Premises or any part thereof for any other business or purpose except as may be permitted under the Contribution Agreement and this Sublease or as otherwise consented to by the Sublandlord, in its sole discretion.

(2) The Subtenant shall be permitted to further sublease or licence units in the Building and permit occupancy of the Building only in accordance with the terms of this Sublease and the Contribution Agreement.

(3) The Subtenant shall operate and maintain the property in a manner that is consistent with the requirements of the Headlease;

(4) The Subtenant shall protect all public works services and/or utilities and all easements and rights-of-way in favour of the Sublandlord on, above, under or affecting the Demised Premises.

(5) Notwithstanding the foregoing, the Subtenant shall not be in default of its obligations under this Section 5.1 to the extent that it has ceased to operate in connection with any circumstance or delay contemplated by Section 15.12 hereof or any event of Force Majeure; in connection with any repair or restoration work after damage or destruction; or any alteration, remodelling, renovation or expropriation.

(6) Notwithstanding anything to the contrary contained in the Sublease, the Subtenant acknowledges and agrees that any filming done on the Headlandlord Lands, save and except for personal use, shall require the Sublandlord and Headlandlord's prior written consent (which consent may be unreasonably or arbitrarily withheld). The Subtenant further acknowledges and agrees that the Sublandlord and/or the Headlandlord's consent may require that the Subtenant enters into a Film License Agreement with the Sublandlord and/or the Headlandlord (such to be on Sublandlord or Headlandlord's form).

Section 5.2 Observance of Law

The Subtenant shall, at its sole cost and expense (except as otherwise specified in this Sublease and subject always to the terms of the Contribution Agreement), promptly:

- (1) observe and comply with all Applicable Laws, and all requirements of all governmental authorities, including, without limitation, federal, provincial and municipal legislative enactments, zoning and building by-laws (where applicable), and any other governmental or municipal regulations or agreements now or hereafter in force which relate to or affect the demolition or construction of buildings and to equipping or maintenance, operation and use of the Demised Premises or the conduct of any business in the Demised Premises, and public ways adjacent thereto and to the making of any repairs, replacements, alterations, additions, changes, substitutions or improvements of or to the Demised Premises or any part thereof and including further all police, fire and sanitary regulations imposed by any federal, provincial or municipal authorities and all requirements made by fire insurance underwriters to the extent required in order to keep the required insurance in force;
- (2) observe and comply with all requirements of, and pay all costs and expenses in connection with, the controls imposed by governmental authorities for ambient air and environmental standards;
- (3) observe and comply with all police, fire and sanitary regulations imposed by any governmental authorities (whether federal, provincial or municipal);
- (4) observe and comply with any reciprocal or shared facility agreements which may be entered into with the owner or developer of any adjoining land, including the Headlandlord, and including the rules set out in any such agreements;
- (5) to comply with all present and future legislation under the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, or any successor or replacement legislation including any regulations to designated substances;
- (6) carry out all modifications, alterations or changes of or to the Demised Premises and the Subtenant's conduct of business in or use or operation of the Demised Premises which are required by any such authorities as set out above.

Section 5.2.1 Compliance with Fire Prevention Laws and Regulations

- (a) The Sublandlord shall, ensure that the Demised Premises is equipped with up-to-date fire protection systems in compliance with the *Building Code* (O.Reg 332/12) (the "**Ontario Building Code**") and the *Fire Code* (O.Reg. 213/07) (the "**Ontario Fire Code**"), as same may be amended from time to time, and all other laws, by-laws, rules and regulations governing same. This shall include the monthly, semi-annual, annual and five year inspections for the fire alarm, sprinkler system, standpipe, kitchen suppression, fire extinguishers, emergency lighting, engineer smoke exhaust (if applicable), generator (if applicable) and all in unit fire protection devices. The Sublandlord will install and maintain offsite Underwriters Laboratories of Canada compliant monitoring. All costs incurred by

the Sublandlord pursuant to this Subsection 5.2.1(a) shall be charged to the Subtenant as Additional Rent.

- (b) With the exception of the responsibilities of the Sublandlord under Subsection 5.2.1(a) above, the Subtenant shall at all times during the Term strictly adhere to, and comply with, all fire prevention laws, statutes, by-laws, codes and regulations, including but not limited to the *Fire Protection and Prevention Act, 1997* (S.O. 1997, c. 4) (the “**Fire Prevention Act**”) and the Ontario Fire Code, regulations, codes, permits, licences, industry standards, guidelines rules and directives as any of the same may be replaced or amended from time to time (collectively, the “**Applicable Fire Authorities**”) and all notice requirements, fire prevention obligations, and all maintenance, repair, inspection, monitoring and reporting responsibilities imposed thereby as well as by the City of Toronto’s Fire Services, as the Authority Having Jurisdiction (“**Toronto Fire Services**”).
- (c) The Subtenant shall work with the Sublandlord to comply with all Notices of Violation and/or Orders received from Toronto Fire Services, and address any and all deficiencies noted by Toronto Fire Services.
- (d) The Subtenant shall repay the Sublandlord, forthwith and upon demand therefor, for any fines, penalties or demands for monies whatsoever which are charged to, levied against, requested or demanded of the Sublandlord, as a result of the conduct of the Subtenant or the residential tenants. The Subtenant shall be responsible for the damage caused to fire protection equipment within units by residential tenants.
- (e) The Subtenant shall, at the Subtenant's own cost, develop and implement a fire safety plan, approved by the Sublandlord, as required by the Ontario Fire Code, reviewed on an annual basis pursuant to the Ontario Fire Code.
- (f) The Subtenant shall immediately notify the Sublandlord of any fires (or incidents that are required to be reported to Toronto Fire Services as required by same or by the Applicable Fire Authorities) that take place at the Demised Premises, and shall deliver to the Sublandlord any relevant reports, documents or information in connection therewith within ten (10) business days of said reports, documents or information being received by the Subtenant.
- (g) Subtenant shall permit the Sublandlord to inspect Subtenant's records relating to fire safety and compliance with the Ontario Building Code and Ontario Fire Code at any time upon forty-eight (48) hours advance notice. The Subtenant shall facilitate access by the Sublandlord or its contractors to the Demised Premises for the purpose of this Section 5.2.1(g), at any time upon forty-eight (48) hours advance notice (save in an emergency when no Notice shall be required). The Subtenant shall be responsible for providing notice to the residential tenants, in accordance with the *Residential Tenancies Act, 2006*.

Section 5.2.2 Compliance with Technical Standards and Safety Act, 2000, S.O. 2000, c.16

- (a) Without limiting the generality of Section 5.2 above, the Subtenant shall at all times during the Term strictly adhere to, and comply with, all requirements of the Technical Standards and Safety Authority (“**TSSA**”), and all statutes, laws, by-laws, regulations, licences, permits and codes pertaining to elevating device safety, including but not limited to the

Technical Standards and Safety Act, 2000, (S.O. 2000, c. 16) and all regulations made thereunder (the “**Act**”).

- (b) For greater certainty, the obligations contained in Subsection 5.2.2(a) above shall include, but shall not be limited to, the following:
- i. Performance, completion and compliance with all registration, licensing and maintenance obligations required by the TSSA and the Act and in this regard, prior to or upon execution of this Sublease the Subtenant shall deliver to the Sublandlord proof that the Subtenant is registered with the TSSA and has entered into a valid and binding contract with a contractor licensed to inspect and repair existing elevating devices in accordance with the requirements of the TSSA and the Act;
 - ii. Immediate compliance with all notices of violation and/or orders received from the TSSA with copies of said notices and orders (as well as remedial steps to be taken) delivered to the Sublandlord within three (3) business days of receipt of same; and
 - iii. Timely submission to the TSSA of all maintenance reports, as well as all annual and semi-annual reports as may be required by the TSSA and the Act, with copies delivered to the Sublandlord immediately thereafter.
- (c) The Subtenant shall deliver to the Sublandlord in a prompt and timely manner, notice of any unsafe condition or conditions with respect to the elevating devices at the Demised Premises as well as the Subtenant’s plan to remedy same (which remedial plan shall state that any such conditions will be addressed in a prompt and timely manner) or confirmation that any such condition has been rectified, and the Subtenant shall also provide notice to the Sublandlord of any accidents with respect to the elevating devices at the Demised Premises immediately after any such accident takes place. The Subtenant shall also provide all notices referred to in this section 5.2.2 to the TSSA and any other authority as may be required by the TSSA, the Act or otherwise at law.
- (d) For the purposes of this Section 5.2.2 and all requirements hereunder, the Subtenant shall be deemed to be the owner of the Demised Premises and the Subtenant shall at all times during the Term comply with this Section 5.2.2 as though it were the legal owner of the Demised Premises.

Section 5.3 Subtenant's Covenants

The Subtenant covenants in respect of the use of the Demised Premises as follows:

- (1) not to commit, suffer or permit any act or omission in the Demised Premises which shall result in an illegal use or cause any breach of any of the Applicable Laws;
- (2) to maintain in force during the Term all necessary licences, permits, and authorizations relating to the use and occupancy of the Demised Premises by the Subtenant; and
- (3) to comply with all terms and conditions set out in the Contribution Agreement.

Section 5.4 Nuisance

The Subtenant and its employees, agents, occupants and invitees shall not commit, cause or

permit any nuisance or waste on the Demised Premises and shall ensure that nothing is done or kept at or on the Demised Premises which disturbs, damages to or interferes with the use and enjoyment of any other tenant or lawful occupant of the Demised Premises or any adjoining property, or which unreasonably disturbs or interferes with or annoys any Person. Without limiting the generality of the foregoing, the release from the Demised Premises of ten (10) or more balloons within a twenty-four hour period shall be considered a nuisance and Subtenant shall not engage in such activity at any time.

Section 5.5 Workplace Safety and Insurance Act

(1) The Subtenant shall at all times through the Term be responsible for the safety of its Representatives on the Demised Premises and Lands and shall be the constructor and employer in respect of all activities conducted by the Subtenant and the Subtenant's Representatives on the Demised Premises (including any Subtenant's Work), for the purpose of all applicable health and safety legislation, including the *Occupational Health and Safety Act*, R.S.O.1990, c.O.1 and regulations thereunder (as same may be amended, modified, or replaced from time to time), and the *Workplace Safety and Insurance Act*, 1997 (S.O.1997, c.16) and regulations thereunder (as same may be amended, modified, or replaced from time to time) (the "WSI Act"), unless the Subtenant contracts with a general contractor who assumes the responsibility of a constructor in which case the Subtenant's obligations under this Section 5.5 shall be delegated to the general contractor. In the event of such delegation, the Subtenant shall remain responsible for its contractor's compliance with this Section 5.5.

(2) The Tenant shall ensure that full insurance coverage is carried pursuant to the requirements of the WSI Act and that all assessments for same are paid in relation to the Subtenant's use of and Work on the Demised Premises.

ARTICLE 6 REPAIR, MAINTENANCE AND IMPROVEMENT

Section 6.1 Sublandlord Maintenance and Repair Obligations

(1) The Sublandlord acting in its capacity as Sublandlord and not as a municipal corporation shall not be obliged to make any repairs whatsoever to the Demised Premises at any time during the Term, nor to furnish any services or facilities to the Demised Premises except as expressly set out in this Sublease (including as a result of any Excluded Liability).

Section 6.2 Subtenant's Obligation to Repair

(1) The Subtenant shall, at its sole cost and expense, and at all times throughout the Term, keep and maintain the whole of the Demised Premises, and every part thereof, in first class condition and repair having regard to buildings of similar age and quality, and to the same accessibility and energy efficiency levels met by the Demised Premises on the Commencement Date, all as determined by the Sublandlord in its sole discretion. Without limiting the generality of the foregoing the Subtenant shall promptly repair, replace and maintain and shall conduct routine, scheduled and preventative maintenance, in all cases as would a prudent owner, on and to:

- (a) the structure of the Building including the roof and roof membrane, windows, interior concrete slab floors and exterior walls;
- (b) any capital repairs to the Demised Premises;

- (c) the Building Systems;
- (d) all components of the exterior of the Demised Premises; and
- (e) the interior of the Demised Premises including the Residential Units, all trade fixtures, improvements and equipment in the Demised Premises and the Residential Units, other than property owned by a Licensee.

(2) Notwithstanding subsection (1), in the first two (2) years following the Commencement Date, the Subtenant shall be entitled to avail itself of a limited warranty (the "Warranty") provided in the design-build construction contract between the Sublandlord and NRB Inc. with respect to any repairs or replacements that arise from deficiencies related to the construction of the Demised Premises and which are covered under the Warranty. The Sublandlord shall provide the Subtenant with a process for pursuing any claims under the Warranty with NRB Inc., which may be amended from time to time by the Sublandlord. The Subtenant shall:

- (a) comply with any warranty management processes established by the City from time to time;
- (b) provide the Sublandlord with at least ten (10) business days' prior written notice of any warranty inspections to be conducted by the Subtenant, NRB Inc. or any third party, to provide the Sublandlord with the opportunity, but not the obligation, to arrange for a representative of the Sublandlord participate any warranty inspections;
- (c) provide any findings and documentation associated with any warranty inspections with the Sublandlord within ten (10) business days' of their receipt by the Subtenant; and
- (d) provide the Sublandlord with access to and copies of any records associated with any claims under the Warranty.

The Subtenant acknowledges that the Warranty may not apply for the full two years following the Commencement Date, and the Sublandlord shall provide the Subtenant with confirmation on the Commencement Date of the exact date where the Warranty terminates under the design-build construction contract between the Sublandlord and NRB Inc.

(3) The Subtenant shall at all times keep the Demised Premises in a neat and orderly condition, maintain in first class condition all landscaping and exterior areas, and keep all areas clear of ice and snow including any adjacent public areas as required by law, as would a prudent owner.

(4) In the event that the Sublandlord determines that any condition existing or potentially existing on the Demised Premises creates a risk to life, health or safety, the Subtenant shall, at its own cost and expense, effect any repairs, maintenance or other modifications to the Demised Premises required to alleviate such condition as communicated by the Sublandlord to the Subtenant.

Section 6.3 Subtenant Parking Spaces

(1) All measures to prevent unauthorized parking in the Subtenant Parking Spaces, including any permitting system and monitoring program, shall be the sole responsibility and at the sole cost of the Subtenant.

(2) In accordance with the Headlease, the Headlandlord shall maintain and repair (which maintenance shall include without limitation snow clearing) the Subtenant Parking Spaces to the same standard of which it repairs and maintains the other above-grade parking spaces located on the Headlandlord Lands. The Subtenant shall pay its Parking Proportionate Share of the costs of such maintenance and repair within 30 days following demand therefor from the Headlandlord or the Sublandlord, provided that in respect of those years where the Subtenant is occupying the Demised Premises for only part of the Calendar Year, the Subtenant's Proportionate Share shall be adjusted based on the number of days in the Calendar Year of such occupation. The Headlandlord shall provide the Subtenant with all supporting documentation of such costs upon receipt of same from the Headlandlord.

Section 6.4 Headlandlord Lands

(1) The Subtenant shall be responsible for all damages caused to the Headlandlord Lands by any act or omission (including negligence and willful misconduct) of the Subtenant and/or those for whom the Subtenant is at law responsible and/or that results from or is caused by the use of and/or Work on the Demised Premises, subject to reasonable wear and tear (to the extent same does not amount to disrepair) save and except where caused by the Headlandlord, the Sublandlord or those for whom each is at law responsible. Without limiting the generality of the foregoing, the Subtenant shall be responsible, at its sole cost and expense, for keeping the Headlandlord Lands clean and tidy at all times during any Work and the use of the Demised Premises, such to be to a standard equal to, or better than, the Headlandlord Maintenance Standard (as defined below). Under no circumstances shall the Subtenant be entitled to charge any costs in connection with its maintenance activities to the Headlandlord or the Sublandlord.

(2) Pursuant to the Headlease, the Headlandlord shall maintain and repair the Headlandlord Lands in the same manner as in similar areas in the balance of its properties assuming normal usage by Headlandlord tenants and normal usage of the Subtenant Parking Spaces by the Subtenant's Representatives (the "**Headlandlord Maintenance Standard**"), excluding any maintenance and repair obligation that is the responsibility of the Subtenant (including as provided in Subsection (1) above) and subject to reasonable wear and tear. For the purpose of this Section, "repair" includes replacement after damage or failure.

(3) In the event, pursuant to the Headlease, the Headlandlord, acting reasonably, elects to provide additional maintenance to keep the Headlandlord Lands clean and tidy in excess of its obligation in Subsection (2) above, then, where such activity is a result of a breach of the Subtenant's obligations hereunder, such costs shall be charged to the Subtenant and be payable by the Subtenant upon demand thereof from the Sublandlord. Similarly, in the event that the Headlandlord or the Sublandlord has to incur additional costs, including but not limited to additional utilities, maintenance, capital and non-capital repair, insurance, and operating costs arising as a result of the use of the Demised Premises or otherwise resulting from the Subtenant's access over the Headlandlord Lands, the Subtenant shall reimburse the Sublandlord for same upon demand thereof from the Sublandlord.

Section 6.5 Building Condition Assessment and Reserve Fund

(1) The Subtenant shall conduct or cause to be conducted a BCA of the Building in the fifth Sublease Year of the Term and thereafter, the Tenant shall conduct or cause to be conducted a BCA of the Demised Premises no later than five (5) years after the date of the previous BCA. Each BCA shall be conducted in accordance with the Sublandlord's standards, provided to the

Sublandlord in a prompt and timely manner upon receipt by the Subtenant, and subject to the approval of the Deputy City Manager acting reasonably.

(2) The Subtenant shall deposit in a trust account at a Canadian chartered Bank (the "**Reserve Fund Account**") an amount equal to five per cent (5%) of the aggregate annual effective gross income (including all subsidies) from the Demised Premises, including any rent supplement income and affordability payments from the Province of Ontario, the City of Toronto or any other municipality (the "**Reserve Fund**") to be deposited monthly in estimated amounts, adjusted within 60 days of the end of each Sublease Year to reflect actual effective gross income from the Demised Premises for the preceding fiscal year (the "**Reserve Fund Deposit**"). The Sublandlord reserves the right, acting reasonably, to review the amount of the Reserve Fund Deposit with each BCA conducted and to require the Subtenant to increase the amount of the Reserve Fund Deposit where the Sublandlord has determined in its sole discretion that the amount of the Reserve Fund Deposit is not sufficient to establish at the end of each Sublease Year the annual amount required in the most recent BCA.

(3) The Subtenant may, with the prior written approval of the Sublandlord, withdraw amounts from the Reserve Fund Account to fund Work (excluding routine, scheduled or preventative maintenance) in order to maintain the same in the condition required to be maintained hereunder or under the BCA. Such approval shall not be unreasonably withheld, provided the Subtenant shall comply with Section 6.7, Section 6.8 and Section 6.10 hereof in connection with all such Work.

(4) Prior to the Commencement Date, the Subtenant shall provide the Sublandlord with evidence the Reserve Fund Account has been established in the name of the Sublandlord in trust for the Subtenant.

(5) In the event the Subtenant fails to do any Required Work in accordance with Section 6.11 hereof, the Sublandlord shall be entitled to recover the costs from the Reserve Fund to conduct such Required Work including an administration fee of fifteen (15%) per cent.

(6) The Subtenant hereby grants to the Sublandlord a security interest in and lien upon, and pledges to the Sublandlord, all amounts in the Reserve Fund Account and all amounts at any time in or attributable to such account or successor accounts, as security for all existing and hereafter arising obligations, liabilities and indebtedness of the Subtenant to the Sublandlord. The Sublandlord shall take whatever action it considers appropriate and necessary, relying upon an opinion of counsel, to protect and enforce its rights respecting the Reserve Fund Account, including completion and registration of any documents or financing statements at the expense of the Subtenant in order to perfect any security interests in the Reserve Fund Account.

Section 6.6 Reserve Fund at the End of Term

All amounts in the Reserve Fund shall revert to the Sublandlord absolutely at the end of the Sublease Term and, provided the Subtenant has made all repairs to the Demised Premises in accordance with the BCA, the Sublandlord shall reimburse the Subtenant for the cost of any repair or replacement in accordance with Section 6.9 hereof.

Section 6.7 Headlandlord and Sublandlord's Approval of the Subtenant's Work

(1) The Subtenant shall not initiate construction of any Work without the Sublandlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, and

where required under the Headlease, the Headlandlord's consent. Should the Sublandlord not provide written reasons for its denial of consent to the Subtenant within ten (10) business days from the Sublandlord's receipt of the Subtenant's written request, the Sublandlord shall be deemed to have consented to such Work, provided that the Headlandlord has provided its consent where required under the Headlease. The Subtenant shall provide the Sublandlord with such information as is required to obtain the Headlandlord's consent pursuant to the Headlease, and shall pay the Headlandlord's costs in connection with such Work where required under the Headlease.

(2) If and when approved in accordance with subsection (1), the Work shall be completed at the Subtenant's sole cost and expense in accordance with Schedule B.

(3) If the Subtenant performs any Work, repairs or replacements without compliance with all of the provisions of this Section, the Sublandlord or the Headlandlord shall have the right to require that construction stop, and at the Sublandlord or the Headlandlord's option, that the Work be corrected forthwith upon demand, or that the Subtenant to remove such Work, repairs or replacements forthwith, at the Subtenant's sole cost and expense, and to restore the Demised Premises to its prior condition, satisfactory to the Sublandlord or the Headlandlord, acting reasonably, failing either, the Sublandlord or the Headlandlord may do so and the Subtenant shall pay the Sublandlord or the Headlandlord's cost plus an administration fee of fifteen percent (15%) of the costs so incurred.

(4) If at any time prior to completion of any Work, the Work ceases and has not been resumed within three (3) months of the date Work was discontinued or if the Subtenant abandons the Demised Premises, then the Sublandlord shall have the right, upon at least ninety (90) days prior written notice given to the Subtenant, to terminate this Sublease, provided that in the event the Subtenant recommences and thereafter is diligently proceeding with the undertaking of the work during such ninety (90) day period, the Sublandlord's entitlement to terminate the Sublease pursuant to this provision in such instance shall be null and void.

Section 6.8 Construction Liens

(1) The Subtenant shall ensure that no construction lien under the *Construction Act*, R.S.O. 1990, c. C30, or any like statute or certificates of action or other similar liens or orders (collectively the "Liens") is filed or is registered against the Demised Premises or the Lands or any part of it, against the Headlandlord's interest in the Lands, or the Sublandlord's or Subtenant's interest in the Demised Premises in connection with any Work or materials undertaken by or supplied to or for the account of the Subtenant, and if any such Lien is made, filed or registered, the Subtenant shall immediately discharge it or cause it to be discharged.

(2) If the Subtenant fails to discharge or cause any such Lien to be discharged within ten (10) Business Days after it is made, filed or registered, then, in addition to any other right or remedy of the Sublandlord under this Sublease, the Sublandlord or Headlandlord may, at their option discharge it by paying the amount required to discharge it into court or directly to the lien claimant or holder of the Lien and the amount paid by the Headlandlord or Sublandlord and all costs and expenses including but not limited to solicitor's fees (on a solicitor and his client basis) incurred as a result of the making, filing or registration of any such Lien, including, without limitation, for the discharge of such lien shall be immediately due and payable by the Subtenant to the Sublandlord on demand.

(3) Nothing herein contained shall authorize Subtenant, or imply any consent or agreement or request on the part of the Headlandlord or Sublandlord to subject the Headlandlord or Sublandlord's estate or interest in the Lands, Demised Premises and/or the Building to any construction lien or any other lien of any nature or kind whatsoever. Notice is hereby given to all parties that the Headlandlord and Sublandlord expressly refuse and deny any consent or agreement or request to permit their estate or interest in the Lands, Demised Premises and/or the Building to be subject to any construction lien or other lien of any nature or kind whatsoever without the express written agreement of the Headlandlord or Sublandlord to this effect. Subtenant acknowledges that the Headlandlord and Sublandlord are not, and should not be held to be, an owner as that term is defined in the *Construction Act* with respect to the construction of any work on the Demised Premises by, or on behalf of Subtenant.

Section 6.9 Work in Last Three Years of Lease

Provided the Subtenant has made all repairs to the Demised Premises, in a manner a prudent owner would make, during the term of this Sublease, should the Subtenant, be required to effect any Work during the last three (3) years of the Term, the economically useful life of which would extend beyond the expiry of the Term, the Sublandlord and the Subtenant may agree to terminate this Sublease, or require the Subtenant to proceed with the repair or replacement and, only if this Sublease is not renewed and upon expiry, the Sublandlord shall reimburse to the Subtenant any unamortized amount of such repair or replacement for the period beyond the expiry of the Term. The calculation of the unamortized amount will be based on straight line amortization of the costs of such repair or replacement over the improvements' economic life, in the opinion of the Sublandlord acting reasonably.

Section 6.10 Access by Headlandlord and Sublandlord

Save in the case of emergency, as determined by the Headlandlord or the Sublandlord, acting reasonably in which case the Headlandlord and Sublandlord shall have access without notice to the Demised Premises, the Headlandlord and Sublandlord and their agents shall be entitled to enter the Demised Premises from time to time upon twenty-four (24) hours' prior notice or, where necessary, such period of time as set out in the *Residential Tenancies Act, 2006*, S.O. 2006, c. 17 or its successor legislation, to view its state of repair, and without being considered to be interfering unreasonably with the Subtenant's possession of the Demised Premises or the possession of any of the Subtenant's residential tenants. The Subtenant shall be responsible for providing notice to the residential tenants, in accordance with the *Residential Tenancies Act, 2006*. The Subtenant shall permit the Headlandlord and Sublandlord to inspect the Subtenant's records relating to any maintenance, repairs, alterations, improvements, renovations and replacements to confirm compliance with this Sublease, at any time upon reasonable notice.

Section 6.11 Repairs by Sublandlord

In the event the Sublandlord determines in its sole opinion, acting reasonably, that the Demised Premises are not being maintained in the condition required under this Sublease, the Sublandlord may on written notice require the Subtenant to make repairs, alterations, changes, adjustments, improvements or additions to the Demised Premises or any part of them (the "**Required Work**"), as the Sublandlord reasonably considers necessary to maintain the Demised Premises in such condition. In the event the Subtenant fails to do so within thirty (30) days after receipt of the Sublandlord's notice, the Sublandlord may elect to carry out the Required Work and recover all expenses, including a fifteen percent (15%) administration fee, from the Subtenant to the extent that there are insufficient funds in the Reserve Fund to cover the said expenses.

Section 6.12 Environmental Matters

(1) The Subtenant shall not cause or allow any Hazardous Materials to be used, generated, stored, or disposed of on, under or about, or transported to or from, the Demised Premises or the Lands (collectively the "Hazardous Materials Activities") except those reasonably required for the conduct of the Subtenant's operations in the Demised Premises and in strict compliance, at the Subtenant's expense, with all applicable Environmental Laws, and using all necessary and appropriate precautions which a prudent operator would exercise.

(2) The Headlandlord and Sublandlord shall not be liable to the Subtenant for any Hazardous Materials Activities conducted on the Demised Premises during the Term or any extension thereof, however caused, whether or not consented to by the Headlandlord or Sublandlord; the Subtenant shall indemnify, defend with counsel, and hold the Headlandlord and Sublandlord harmless from and against any claims, damages, costs and liabilities arising out of any and all such Hazardous Materials Activities.

(3) For purposes hereof, Hazardous Materials shall include but not be limited to substances defined as contaminants or pollutants under the *Environmental Protection Act* (Ontario), R.S.O. 1990, c. E.19 or the *Canadian Environmental Protection Act, 1999*, S.C. 1999, c. 33, and all other laws and ordinances governing similar matters; and any regulations adopted and publications promulgated pursuant thereto (collectively the "Environmental Laws"), as they may be amended from time to time.

(4) The Subtenant shall promptly notify the Sublandlord both by telephone and in writing of any Release of any Hazardous Materials by the Tenant or by those for whom the Tenant is responsible at law or any other occurrence or condition in or about the Demised Premises, the Lands, or any adjacent properties caused by the Subtenant or any Person for whom the Subtenant is responsible at law which could contaminate the Lands, or subject the Headlandlord, Sublandlord or the Subtenant to any fines, penalties, orders, investigations or proceedings under Environmental Laws, and the Headlandlord and Sublandlord and their representatives and employees at their expense may enter the Demised Premises at any time, upon reasonable notice, during the Term to inspect the Subtenant's compliance herewith.

(5) The Subtenant shall also be responsible for proper disposal of all substances and toxic materials, and other materials which, under the Environmental Laws or any Applicable Laws dealing with waste and or recycling, by virtue of prudent waste management procedures in the Subtenant's industry require special disposal measures, including, without limitation, oil, kitchen waste, grease and cleaning substances.

(6) Subject to the provisions of Subsections Section 6.12(7), (8) and (9) below and subject to the provisions of Section 8.1 relating to Excluded Liability, after the Commencement Date, the Demised Premises shall be entirely at the risk of the Subtenant and the Subtenant shall assume any and all responsibilities and liabilities arising out of or in any way connected with any matter or condition in, on, under or in the vicinity of the Demised Premises from and after the Commencement Date, whether known or unknown and imposed by any Environmental Laws.

(7) The Sublandlord releases and discharges the Subtenant, its employees, directors, officers, appointees, representatives and agents from any claims, demands and actions arising out of or as a result of the condition of the Demised Premises as of the Commencement Date and any impact such condition has had on any adjacent land owned by the Sublandlord, except where

the claim, demand or action has been caused by the negligence of the Subtenant or the negligence of any person on the Demised Premises at the invitation or request of the Subtenant.

(8) The Subtenant hereby indemnifies the Headlandlord and Sublandlord, their elected and appointed officials, directors, officers, employees, appointees, agents and representatives and those for whom they are at law responsible (the "Indemnified Parties") from any and all liabilities, actions, damages, claims, remediation cost recovery claims, losses, costs, orders, fines, penalties and expenses whatsoever (including all consulting and legal costs on a solicitor and own client basis and the cost of remediation of the Demised Premises, the Lands and any adjacent properties) arising from or in connection with:

- (a) any breach of or non-compliance with the provisions of this Section by the Subtenant; or
 - (b) any release of Hazardous Materials at or from the Demised Premises caused by the Subtenant, its Licensees or Representatives or any Person for whom the Subtenant is in law responsible; or
 - (c) any release of Hazardous Materials related to or as a result of the use and occupation of the Demised Premises by the Subtenant, its Licensees or Representatives or any Person for whom the Subtenant is in law responsible, or
 - (d) any release of Hazardous Materials related to or as a result of any act or omission of the Subtenant, its Licensees or Representatives, or any Person for whom it is in law responsible.
- (9) Notwithstanding the provisions of SubSection 6.122 (6), (7) and (8) in the event that:
- (a) the soil, subsoil, surface water or groundwater of any other lands ("Neighbouring Properties") are affected by Hazardous Materials emanating from the Demised Premises to the extent that such effect is the result of the presence of Hazardous Substance on the Demised Premises prior to the Commencement Date or in respect of any Excluded Liability; and/or
 - (b) after the Commencement Date, Hazardous Materials emanating from lands owned or controlled by the Sublandlord affects the soil, subsoil, surface water or ground water at, on or under the Demised Premises, this Sublease shall in either case not relieve the Sublandlord from any responsibilities and liabilities therefor to the Subtenant or the owners or occupants of any Neighboring Properties and/or any Governmental Authority to the extent the Sublandlord has such responsibility under Environmental Laws or otherwise under the Contribution Agreement and such effects cause damages, losses, liabilities, harm, injury, costs, expenses to, or actions, demands and claims against the Subtenant or are the subject of regulatory action or third party claims, and the Subtenant shall not be required to indemnify the Sublandlord with respect thereto.

For clarity, it is understood and agreed that in the circumstances described in this SubSection 6.122 (9), the Sublandlord shall bear the responsibility and liability therefor, including as it would have had at law as if SubSection 6.122 (6), (7) and (8) had not been included herein.

(10) The obligations of the Subtenant under this Article shall survive the expiry or earlier

termination of this Sublease.

ARTICLE 7 SURRENDER

Section 7.1 Surrender

At the expiration of the Term or the earlier termination of this Sublease:

(1) The Subtenant agrees to peaceably surrender and yield up to the Sublandlord the Demised Premises in as good condition and repair as the Subtenant is required to maintain the Demised Premises pursuant to this Sublease, which shall thereupon vest in the Sublandlord free and clear of all financial encumbrances without any necessity for any transfer documentation and for no consideration and thereupon the rights of the Subtenant under this Sublease shall terminate.

(2) The Subtenant also agrees to deliver to the Sublandlord copies of all books and records with respect to the Demised Premises as are in its possession at such time so as to ensure the orderly continuance of operation of the Demised Premises by the Sublandlord if the Sublandlord so requires beginning on the date this Sublease is terminated. The Sublandlord shall have the right to review the Subtenant's original books and records related to the Demised Premises as and when necessary.

(3) The Subtenant shall not execute any agreement with respect to the Demised Premises (including a lease or an agreement for the provision of services) which expires within the last five (5) years of the Term or after the end of the Term, without the consent of the Sublandlord, which may be unreasonably withheld, conditioned or delayed.

(4) Notwithstanding the termination of the Sublease, whether at the expiration of the Term or earlier as is provided herein, the Subtenant shall remain liable to the Sublandlord for any default hereunder by the Subtenant, notice of which has been received by the Subtenant, during the Term and which remain outstanding as of the expiry of the Term.

(5) Notwithstanding the foregoing, at the termination or expiry of this Sublease for any cause, the Subtenant shall remove chattels, trade fixtures and other personal property from the Demised Premises in each case placed thereon by the Subtenant, other than chattels and personal property required for the use and operation of the commercial kitchen and the Residential Units in compliance with the residential tenancy agreements signed with Licensees, including, without limitation, appliances and furnishings supplied by the Sublandlord and/or the Subtenant. If the Subtenant fails to remove any item from the Demised Premises at the expiry or earlier termination of this Sublease, then at the option of the Sublandlord upon five (5) business days' prior written notice to the Subtenant, same shall be removed from the Demised Premises and sold or disposed of by the Sublandlord in such manner as it deems advisable without any compensation whatsoever due to Subtenant. Otherwise, if the Subtenant fails to remove any item so required by the Sublandlord to be removed pursuant to the terms hereof, then the Sublandlord shall have the right to do so at the Subtenant's cost and the Subtenant shall pay to the Sublandlord on demand, as Additional Rent, all costs incurred by the Sublandlord in connection therewith, plus an administration fee of fifteen percent (15%) of the costs.

(6) The Subtenant shall, at the expiration or earlier termination of the Term, at its sole cost, leave the Building and any subsequent leasehold improvements in the same condition it is required to be maintained pursuant to the provisions of this Sublease.

Section 7.2 Assignment of Rights

(1) At the expiration of the Term or the earlier termination of this Sublease, the Subtenant shall, for no consideration, assign to the Sublandlord all of the Subtenant's interest in the Demised Premises including, for greater certainty, the Building and all Subtenant's fixtures located thereon which the Subtenant elects not to remove in accordance with its rights under Section 7.1 above, together with the benefit of all subleases, licence agreements, guarantees, warranties and other agreements and rights benefiting the Demised Premises or the Subtenant's interest therein, if and to the extent that the Sublandlord shall require such benefits to be assigned, provided that such benefits are capable of being assigned. The Subtenant agrees to deliver executed copies of all such documents to the Sublandlord at such time. The Sublandlord shall assume the Subtenant's rights and obligations under such documents, provided that such rights and obligations are capable of being assigned. Notwithstanding the foregoing, the Subtenant shall remain liable for any default, cost or obligation arising pursuant to such documents prior to the date of such assignment.

(2) The Subtenant agrees to assign all contracts and ongoing obligations, capable of being assigned to the Sublandlord and the Sublandlord agrees to assume the Subtenant's rights and obligations under such contracts, provided such rights and obligations are capable of being assigned.

(3) The Subtenant hereby constitutes the Sublandlord as the Subtenant's true and lawful attorney fully empowered to execute any required documents in order to take any reasonable steps necessary to effect any such assignments set out in Section 7.2(2).

Section 7.3 Overholding

If the Sublandlord permits the Subtenant to remain in possession of the Demised Premises after the expiration of the Term and without an agreement concerning such overholding and accepts Rent, as set out below, in respect thereof, a tenancy from month to month shall be deemed to have been created. Such tenancy may be terminated at any time either by the Sublandlord or, by the Subtenant by notice to the other with the termination date to be set out in the notice and to be at least sixty (60) clear days after delivery of the notice by the Subtenant and at least twenty (20) clear days after delivery of the notice by the Sublandlord and, in the absence of written agreement to the contrary, shall be subject to all of the terms of this Sublease, except as to the Term.

Section 7.4 Headlandlord Lands

At the expiration of the Term, any overholding period or earlier termination of this Sublease, the Subtenant shall cease to have the right to access and use the Headlandlord Lands.

ARTICLE 8 INDEMNITY

Section 8.1 Non-Liability of Headlandlord and Sublandlord

Notwithstanding anything to the contrary in this Sublease or the Headlease, the Headlandlord and Sublandlord and those for whom they are at law responsible (collectively the "Released Persons") are not liable or responsible in any way to the Subtenant or to any other Person, and the Subtenant hereby releases the Released Persons from, all claims of every nature and kind arising out of or in respect of:

- (1) the use and occupation of the Residential Units by the Licensees;
- (2) ensuring that the Licensee's use of and conduct within the Demised Premises complies with this Sublease and all applicable laws;
- (3) enforcing the provisions of any License Agreement relating to the Residential Units;
- (4) the acts of (including the negligent and wilful acts of): (i) any Person in the Demised Premises; (ii) occupants of properties adjacent to the Demised Premises; and/or (iii) the public;
- (5) any occurrence on the Demised Premises, howsoever caused;
- (6) any: (a) death or injury arising from any occurrence in, upon, at, or relating to, the Demised Premises or the Lands, or from any improvement located thereon, or any part of them, or damage to property of the Subtenant or of others located on the Demised Premises, or the Lands or elsewhere; (b) loss of or damage to, or loss of use of, any property of the Subtenant or others; or (c) loss of business or revenue or decrease in the value of the business of the Subtenant from any cause whatsoever; unless the death, injury, loss or damage results from the act, omission or negligence of any Released Persons and whether or not the Subtenant has or is required to have insurance coverage with respect thereto. Without limiting the generality of the foregoing but also subject to the foregoing, the Released Persons will not be liable for any injury or damage to Persons or property resulting from fire, explosion, water, rain, flood, snow or leaks or from the existence of any Hazardous Materials which are or have been located, stored or incorporated in or on any part of the Demised Premises or the Lands, or by any other cause whatsoever and no Released Person is liable for any such damage caused by other tenants or Persons on the Lands or by occupants of property adjacent to the Lands, or the public, or caused by construction or by any private, public or quasi-public work. For greater certainty, notwithstanding anything herein contained to the contrary in this Lease, the Released Persons shall in no way be liable for indirect or consequential damages or loss.

Notwithstanding the foregoing or any other provision herein or in any other agreement, the Sublandlord shall not be released from any liability and shall be responsible to the Subtenant for all costs, fees, expenses, claims, actions, losses and damages arising from any breach of its obligations under this Sublease or for any Hazardous Materials and any Hazardous Materials Activities in existence or pertaining to the period prior to the commencement date of this Sublease (the "**Excluded Liability**").

Section 8.2 Subtenant's Indemnity

Other than in respect of the Excluded Liability, the Subtenant shall indemnify and save harmless the Released Persons (as defined above) against and from any and all expenses, costs, damages, suits, actions or liabilities and from all costs, counsel fees, expenses and liabilities incurred in or about any such claim or any action or proceeding brought thereon (collectively, "Damages") arising out of any default by the Subtenant hereunder, and from all claims and demands of every kind and nature made by any person or persons to or against the Released Persons, for all and every manner of costs, damages or expenses incurred by or injury or damage to such person or persons or his, her or their property, which claims or demands may arise howsoever out of:

- (1) the use or occupation of the Demised Premises by the Subtenant, its employees, invitees or those for whom the Subtenant is at law responsible;
- (2) the use or occupation of the Headlandlord Lands by the Subtenant, its employees, invitees or those for whom the Subtenant is at law responsible,
- (3) the failure of the Subtenant, its consultants, contractors, subcontractors, suppliers, agents, servants, employees or Subtenant's Representatives to exercise the care, skill or diligence required under this Sublease, and all Applicable Laws, in carrying out any Subtenant's Work, or any aspect thereof;
- (4) all insured and uninsured damage to property installed, property in transit and contractors' tools and equipment caused by the Subtenant or those for whom the Subtenant is at law responsible while carrying out any Subtenant's Work;
- (5) any personal or bodily injury to any person or persons, including death, resulting at any time upon or occurring in or about the Demised Premises, unless caused by the negligence of the Headlandlord, Sublandlord or those for whom the each are in law responsible;
- (6) any contract, lien, mortgage, charge or encumbrance on or in respect of the Demised Premises arising from or occasioned by the act, default or negligence of the Subtenant or those for whom the Subtenant is in law responsible;
- (7) all costs and expenses of every kind and nature relating to the Demised Premises, unless expressly excluded under this Sublease or unless expressly stated in this Sublease to be the responsibility of the Sublandlord. Without limiting the generality of the foregoing, the Subtenant is not responsible for any costs incurred by the Sublandlord with respect to the preparation and/or review of such documentation required by the Sublandlord to give effect to this Sublease unless expressly stated to be the responsibility of the Subtenant; and
- (8) any appeal of an assessment of Taxes made by the Subtenant, excluding any financial loss of the Sublandlord or the Headlandlord due to a reduction in the amount of Taxes payable by the Subtenant resulting from such appeal being successful,

excluding to the extent that such Damages are caused by any act of omission of the Released Persons.

This section shall survive the termination or expiry of this Sublease, any provisions in this Sublease to the contrary notwithstanding.

Section 8.3 Loss or Damage

The Released Persons shall not be liable for any death or injury arising from, or out of any occurrence in, upon, at, or relating to the Demised Premises or damage to property of the Subtenant or of others located on the Demised Premises, nor shall they be responsible for any loss of or damage to any property of the Subtenant or others from any cause, unless and to the extent that any such death, injury, loss or damage, results from the negligence of the Headlandlord, Sublandlord, their agents, employees, contractors, or others for whom they may, in law, be responsible, or as a result of any Excluded Liability. Without limiting the generality of the foregoing, the Released Persons shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, falling ceiling tile, failing fixtures, steam, gas, electricity, water, rain, flood, snow or leaks from any part of the Demised Premises or from the pipes, sprinklers, appliances, plumbing works, roof, windows or subsurface of any floor or ceiling of the Building or from the street or any other place or by dampness or by any other cause whatsoever. The Released Persons shall not be liable for any such damage caused by other Persons on the Demised Premises or by occupants of the Lands or adjacent property thereto, or the public, or caused by construction or by any private, public or quasi-public work. All property of the Subtenant kept or stored on the Demised Premises shall be so kept or stored at the risk of the Subtenant only and the Subtenant releases and agrees to indemnify the Released Persons and save them harmless from any claims arising out of any damage to the same including, without limitation, any subrogation claims by the Subtenant's insurers.

Section 8.4 Release, Exculpatory and Indemnity Clauses

For greater certainty, notwithstanding anything herein contained to the contrary in this Sublease, any and all release, exculpatory and indemnity clauses which are included in this Sublease for the benefit of the Sublandlord are intended also to benefit the Released Persons (as defined above), and any and all release, exculpatory and indemnity clauses which are included in this Sublease for the benefit of the any of the Released Persons are in every case intended also to benefit those for whom they are at law responsible (including the officers, directors, shareholders, members employees, agents, and property managers) and for the purposes of such clauses the Sublandlord acts as agent or trustee on behalf of and for the benefit of the Persons mentioned above so that each and every release, exculpatory and indemnity clause fully benefits and is fully enforceable by the Persons on whose behalf and for whose benefit the Sublandlord is acting as agent or trustee pursuant to this Section.

ARTICLE 9 INSURANCE

Section 9.1 Subtenant's Insurance

At all times during the Term and any renewal thereof, the Subtenant at its own expense, shall take out and keep in full force and effect:

- (1) All risks (including flood and earthquake) property insurance in an amount not less than the amount equal to that which would be required to fully replace or repair any loss or damage ("**Replacement Cost**"), insuring:
 - (a) the Demised Premises (including all buildings on the premises) and the Sublandlord and Headlandlord is to be included as an additional named insured and/or joint loss payee;

- (b) contingent liability from the enforcement of building by-laws including the demolition and replacement of undamaged portions of the buildings or structures and increased costs of construction;
 - (c) all property owned by Subtenant or for which Subtenant is legally liable or installed by or on behalf of Subtenant, or located on the Premises including, without limitation, leasehold improvements, chattels, furniture, stock, office equipment, equipment, fixtures, contents, boiler or mechanical or electrical equipment, if applicable, and the policy will include a Waiver of Subrogation in favour of the Sublandlord; and
 - (d) extra expense insurance in such amounts as will reimburse the Subtenant for extra expense incurred arising out of prevention of access to the Demised Premises and/or business interruption insurance covering any rental obligation to the Sublandlord.
- (2) If a separate policy of insurance is maintained for the boiler and machinery, the policies shall be on a repair and replacement basis, in an amount to reflect the replacement cost of the building and the contents and equipment located on the Premises. Coverage for the repair and replacement of boilers, pressure vessels, air-conditioning equipment and miscellaneous electrical apparatus on a broad form blanket coverage basis including Business Interruption insurance;
- (3) The Property and Boiler and Machinery policies shall contain provisions for settling joint loss disputes;
- (4) Commercial general liability insurance, which includes products liability (if applicable), personal injury, bodily injury, death, employer's/and contingent employer's liability, tenants legal liability (if occupying the premises as a tenant), blanket contractual liability, non owned automobile liability, Completed Operations Liability, Owners and Contractors Protective liability, tenant discrimination, wrongful eviction, occurrence property damage, and provisions for cross liability and severability of interests with limits of not less than Ten Million Dollars (\$10,000,000.00) per occurrence; If serving alcohol on the premises for compensation, liquor liability insurance in an amount of not less than \$2,000,000 per occurrence. The Headlandlord and Sublandlord are to be included as additional insureds;
- (5) During any period of construction, structural or building alterations, additions, and demolitions, repair and/or renovations:
 - (a) Builders' Risk Insurance insuring the Subtenant and their employees and all those for whom they are at law responsible for damage, including resultant damage from error or design and faulty workmanship, and, to the extent available, covering the replacement cost thereof;
 - (b) Wrap-Up Liability insurance against claims for personal or bodily injury, death or property damage suffered by others arising in connection with the operations of the Subtenant, and indemnifying and insuring the Headlandlord and the Sublandlord and their employees with liability limits no less than Ten Million Dollars (\$10,000,000) per occurrence.

- (6) Standard owner's automobile liability insurance with limits of not less than Two Million Dollars (\$2,000,000.00) in respect of any one accident; and
- (7) Any such other forms of insurance as the Sublandlord or the Headlandlord, acting reasonably, may require from time to time, in forms, in amounts and for insurance risks against which a prudent tenant would insure.]

Section 9.2 Insurance Terms and Conditions

(1) Approval of Insurers

All insurance policies taken out by the Subtenant shall be placed with insurers satisfactory to the Sublandlord and the Headlandlord acting reasonably. Without limiting the generality of the foregoing, all insurers must be licensed to underwrite insurance in the Province of Ontario, except to the extent the Sublandlord waives such requirement in writing.

(2) Notice of Cancellation

Each policy shall contain an endorsement requiring the insurers to notify the Sublandlord and the Headlandlord and any mortgagee in writing, by registered mail, at least thirty (30) days prior to any cancellation or termination thereof.

(3) Waiver of Subrogation

All applicable policies of insurance required to be taken out by the Subtenant shall contain a waiver of any subrogation rights that the Subtenant's insurers may have against the Headlandlord or Sublandlord and against for whom they are in law responsible, whether any such damage is caused by the act, omission or negligence of the Headlandlord or Sublandlord or those for whom they are in law responsible.

(4) Breach of Conditions

Each policy will contain a waiver in favour of the Sublandlord and Headlandlord of any breach of a policy condition or warranty such that the insurance policy in question will not be invalidated in respect of the interest of the Sublandlord and Headlandlord by reason of a breach of any condition or warranty contained in such policies.

(5) Deductibles

The parties agree that insurance policies may be subject to deductible amounts, and which amounts shall be borne by Subtenant.

(6) Primary Coverage

The insurance policies required pursuant to this clause shall be primary and shall not call into contribution any insurance available to the Sublandlord or Headlandlord.

(7) Limits of Insurance

The Sublandlord, acting reasonably, may require the limits of the insurance policies provided by Subtenant to be increased from time to time. Subtenant shall cause the limits of its insurance on its physical assets located on the Demised Premises to be adjusted for inflation from time to time.

Section 9.3 Cancellation of Insurance or Reduction in Coverage

- (1) If the Subtenant fails to take out or to keep in force any insurance referred to in this Section, or should any insurance not be approved by the Sublandlord and should the Subtenant not rectify the situation within forty eight (48) hours after notice by the Sublandlord (stating if the Sublandlord does not approve of such insurance, the reasons therefore) the Headlandlord or Sublandlord may, without any obligation and without prejudice to any other rights and remedies of the Sublandlord under this Sublease: (a) take out the insurance at the Subtenant's expense, payable on demand; (b) enter the Demised Premises and remedy the condition at the sole cost and expense of Subtenant which cost and/or expense shall be payable to the Sublandlord forthwith on demand as rent in arrears; and/or (3) may exercise any other remedy available to it.
- (2) The Subtenant shall not permit anything to be in the Demised Premises or in the Headlandlord Lands which may be prohibited by any insurance policy in force from time to time covering the Demised Premises or the Lands or do or omit, or permit to be done or omitted anything which will cause the cancellation of any insurance policy. If: (a) the occupancy of the Demised Premises; (b) the activities in or on the Demised Premises or the Headlandlord Lands done, omitted, or permitted to be done or omitted by the Subtenant or those for whom it is responsible at law; or (c) any acts or omissions of the Subtenant in the Demised Premises or the Lands or any part of it, results in an increase in premiums for the insurance carried by the Headlandlord or Sublandlord with respect to the Lands, the Subtenant shall pay any such increase in premiums immediately upon demand of the Sublandlord. In determining whether the Subtenant is responsible for the increased premiums, the decision by the Headlandlord or Sublandlord's insurers shall be conclusive evidence of the several items and charges which make up the insurance rate. The Subtenant shall comply promptly with the requirements of the Headlandlord or Sublandlord's insurers, pertaining to the Demised Premises, the Headlandlord Lands, or the Lands.

Section 9.4 Payment of Premiums

Subtenant shall duly and punctually pay all premiums under the aforesaid policies as they become due and payable. In the event of default of payment by Subtenant, the Sublandlord may pay same and the amount so paid shall be forthwith payable as Additional Rent.

Section 9.5 Evidence of Insurance

Upon execution of this Sublease, Subtenant shall deliver to the Sublandlord evidence of the insurance required hereby in the form of Certificates of Insurance, in form and detail satisfactory to the Sublandlord, not acting unreasonably, signed by an authorized representative of the insurer. The Subtenant will make available the complete original certified copies of all applicable policies delivery to the Sublandlord if required. Certificates of insurance evidencing renewal or replacement of policies shall be delivered to the Sublandlord at least sixty (60) days prior to the expiration of then current policies, without demand having to be made therefore by the Sublandlord.

ARTICLE 10 DAMAGE OR DESTRUCTION

Section 10.1 Continuation of Rent

Subject to subsection 10.2(2) below, the partial or complete damage to or destruction of the Building shall not terminate this Sublease or entitle the Subtenant to any abatement of Rent.

Section 10.2 Repair and Replacement by Subtenant

(1) If the Building from time to time standing on the Demised Premises, or any equipment, machinery and other facilities are totally or partially destroyed by any cause whatsoever, there shall be no abatement of Rent and the Subtenant shall repair, replace, rebuild or restore same with all reasonable diligence, and the Subtenant shall not be entitled to use the Reserve Fund in respect thereof. Any new Building shall have a cost of not less than the Replacement Cost of the Building damaged or destroyed. The Subtenant shall first submit its plans to the Sublandlord for approval and such plans shall be approved by the Sublandlord acting reasonably to the extent required herein and provided that all of the terms of this Sublease continue to be complied with. The Sublandlord shall either approve of such plans or advise the Subtenant of any changes to be made, acting reasonably, within ten (10) Business Days of the receipt of such plans, failing which the Sublandlord shall be deemed to approve of such plans. The Subtenant shall deliver such assurances as the Sublandlord may reasonably require with respect to any aspect of the said repair, rebuilding or replacement.

(2) Provided further that, notwithstanding Section 10.2(1), if: (1) at any time the Building is damaged or destroyed in excess of 50% of the Replacement Cost of the Building above ground; or (2) at any time during the last ten (10) years of the Term, there is damage to or destruction of 20% or more of the Building; then either the Sublandlord or the Subtenant, may within sixty (60) days of such damage or destruction, at its option, give written notice to the other Party that it wishes to terminate the Sublease, in which case neither the Sublandlord nor the Subtenant shall be obliged to repair, the Subtenant shall surrender the Demised Premises to the Sublandlord within forty-five (45) days after delivery of the notice, the Rent shall be apportioned and paid to the date of such damage or destruction, and the Sublease shall forthwith be terminated. The Subtenant and the Sublandlord agree that all of the insurance proceeds payable with respect to such damage or destruction shall be paid in accordance with the insurance policies required under Article 9, with the Sublandlord as an additional insured or loss payee. If either Party elects to terminate this Sublease, the Subtenant (to the extent of the insurance proceeds paid to the Subtenant), at the option of the Sublandlord, shall undertake such activities as are required to demolish the Building and leave the Demised Premises in a level condition, free from debris, and restore the Lands to an equal or better condition than it was in prior to the occurrence of such damage or destruction, with the balance of such insurance proceeds payable by reason of such damage or destruction to be retained by the Subtenant absolutely. In that event, the Subtenant is under no obligation to repair, rebuild or replace the Building on the Premises notwithstanding any other provision of this Sublease.

(3) The Subtenant shall not be deemed to be in default under this Sublease during any period of construction or repair while the Demised Premises is untenable in whole or in part.

(4) The certificate of a quantity surveyor shall bind the Parties as to:

(a) the percentage of the Demised Premises rendered untenable;

- (b) the date upon which the reconstruction or repair is completed and the date when the Demised Premises are rendered tenantable; and
- (c) the state of completion of any repair or replacement by the Subtenant.

ARTICLE 11 REMEDIES OF SUBLANDLORD

Section 11.1 Default and Right to Re-Enter

If and whenever (each an "**Event of Default**"):

- (a) the Subtenant fails to pay any Rent or other sums due hereunder within seven (7) days of the later of the day or dates appointed for the payment thereof and receipt of written notice by the Subtenant from the Sublandlord of the amounts delinquent and then outstanding; or
- (b) the Subtenant fails to observe or perform any other material terms, covenants, obligations or conditions of this Sublease and the Contribution Agreement and any shared facilities or reciprocal agreement affecting the Demises Premises to be observed or performed by the Subtenant and any terms and conditions of the Headlease that apply to the Subtenant, (other than those terms, covenants or conditions set out below in Subsections (c), (d), (e), (f), and (g) for which no notice is required) provided the Sublandlord first gives the Subtenant seven (7) days prior written notice of any such failure to perform and the Subtenant fails to cure such failure within such period given in the notice of default or such longer time as would have reasonably sufficed for the remedying of such breach or non-performance if the Subtenant had commenced to remedy the same within such period given and thereafter proceeded to remedy the same with all due diligence, provided that the Subtenant shall not be entitled to the advantage of such longer time unless it shall have actually proceeded thereafter to remedy the same with all due diligence and shall have provided to the Sublandlord, if requested by the Sublandlord, reasonable evidence as to the steps being taken by the Subtenant toward remedying the same; or
- (c) the Subtenant becomes bankrupt or insolvent or takes the benefit of any act now or hereafter in force for bankrupt or insolvent debtors or files any proposal or makes any assignment for the benefit of creditors or any arrangement of compromise; or
- (d) a receiver or a receiver and manager is appointed for all or a portion of the Subtenant's property and the receiver's appointment is not vacated within thirty (30) days; or
- (e) any steps are taken or any action or proceedings are instituted by the Subtenant or by any other party including, without limitation, any court or governmental body of competent jurisdiction for the dissolution, winding-up or liquidation of the Subtenant or its assets other than a corporate re-organization of the Subtenant

and such dissolution, winding-up or liquidation is not rescinded within thirty (30) days; or

- (f) the Subtenant abandons the Demised Premises or the Demised Premises becomes unoccupied for a period of sixty (60) consecutive days or more without the consent of the Sublandlord, other than as a result of circumstances set out in Section 15.12, any permitted renovations, construction, alteration or due to damage or destruction; or
- (g) this Sublease is taken under any writ of execution; or
- (h) the Subtenant purports to make a Transfer other than in compliance with this Sublease, which Transfer is not withdrawn within ninety (90) days following written notice from the Sublandlord in respect thereof;

then and in every such case the Sublandlord, in addition to any other rights or remedies it has pursuant to this Sublease or by law, but subject to Section 11.6, has the immediate right of re-entry upon the Demised Premises and it may repossess the Demised Premises, all without service of notice or resort to legal process and without the Sublandlord being considered guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby.

Notwithstanding the foregoing and without limiting any other remedies, the Sublandlord may have arising out of this Sublease or at law, upon the happening of a default by the Subtenant under this Sublease which the Subtenant has not rectified within the time required pursuant to the provisions of this Sublease, the Sublandlord shall have the right, without any re-entry or termination of this Sublease, to enter upon the Demised Premises and cure or attempt to cure such default (but this shall not obligate the Sublandlord to cure or attempt to cure any such default or, after having commenced to cure or attempted to cure such default, to continue to do so), and to recover from the Subtenant all damages and expenses incurred by the Sublandlord (plus 15% for administration costs) as a result of any breach by the Subtenant.

In the event that the Sublandlord elects to terminate the Contribution Agreement in accordance with its rights therein, the Sublandlord must concurrently terminate this Sublease and similarly, in the event that the Sublandlord elects to exercise its right to terminate this Sublease in accordance with its rights herein, the Sublandlord must concurrently exercise its right to terminate the Contribution Agreement.

Section 11.1B Termination of the Headlease Notwithstanding anything contained herein, the Subtenant acknowledges that in the event of any termination of the Headlease, for any reason whatsoever including, without limitation, any default by the Sublandlord thereunder, this Sublease shall also terminate concurrently with the Headlease, and the Sublandlord shall not be liable or responsible in any way to the Subtenant or to any other Person for, and the Subtenant hereby releases and indemnifies the Subtenant from, all claims of every nature and kind whatsoever arising out of or in respect of any such termination.

Section 11.2 Right to Relet

If the Sublandlord elects to re-enter the Demised Premises as herein provided, or if it takes possession pursuant to legal proceedings or pursuant to any notice provided for by law, it may either terminate this Sublease or it may from time to time without terminating this Sublease make such alterations and repairs as are necessary in order to relet the Demised Premises or any part

thereof for such term or terms (which may be for a term extending beyond the Term) and at such Rent and upon such other terms, covenants and conditions as the Sublandlord in its sole discretion considers advisable. Upon each such reletting all rent received by the Sublandlord from such reletting shall be applied first, to the payment of any indebtedness other than Rent due hereunder from the Subtenant to the Sublandlord; second, to the payment of any costs and expenses of such reletting, including brokerage fees, and solicitor's fees and of costs of such alterations and repairs; third, to the payment of Rent due and unpaid hereunder; and the residue, if any, shall be held by the Sublandlord and applied in payment of future rent as the same becomes due and payable hereunder. If such Rent received from such reletting during any month is less than that to be paid during that month by the Subtenant hereunder, the Subtenant shall pay any such deficiency which shall be calculated and paid monthly in advance on or before the first day of each and every month. No such re-entry or taking possession of the Demised Premises by the Sublandlord shall be construed as an election on its part to terminate this Sublease unless a written notice of such intention is given to the Subtenant. Notwithstanding any such reletting without termination the Sublandlord may at any time thereafter elect to terminate this Sublease for such previous breach. If the Sublandlord at any time terminates this Sublease for any breach, in addition to any other remedies it may have, it may recover from the Subtenant all damages it incurs by reason of such breach, including the cost of recovering the Demised Premises, solicitor's fees (on a solicitor and client basis) and including the worth at the time of such termination of the excess, if any, of the amount of Rent and charges equivalent to Rent required to be paid pursuant to this Sublease for the remainder of the stated Term over the then reasonable rental value of the Demised Premises for the remainder of the stated Term, all of which amounts shall be immediately due and payable by the Subtenant to the Sublandlord.

In any events referred to in Section 11.1(e), in addition to any and all other rights, including the rights referred to in this Section and in Section 11.1(e), the full amount of the current month's instalment of Additional Rent and any other payments required to be made monthly hereunder, together with the next three months instalments for Additional Rent, all of which shall be deemed to be accruing due on a day-to-day basis, shall immediately become due and payable as accelerated Rent, and the Sublandlord may immediately distrain for the same, together with any arrears then unpaid.

Section 11.3 Sublandlord's Expenses

If legal action is brought for recovery of possession of the Demised Premises, for the recovery of Rent or any other amount due under this Sublease, or because of the breach of any other terms, covenants or conditions herein contained on the part of the Subtenant to be kept or performed, and a breach is established, the Subtenant shall pay to the Sublandlord all reasonable expenses incurred therefor, including solicitor's fee (on a solicitor and client basis), unless a Court shall otherwise award.

Section 11.4 Removal of Chattels

In case of removal by the Subtenant of the goods and chattels of the Subtenant from the Demised Premises other than in accordance with this Sublease, the Sublandlord may follow same for such period and in such manner as is provided for in the *Commercial Tenancies Act*, R.S.O. 1990, c.L.7.

Section 11.5 Waiver by Subtenant of Exemption from Distress

The Subtenant hereby agrees with the Sublandlord that notwithstanding anything contained in the *Commercial Tenancies Act*, or any statute subsequently passed to take the place of or amend the said Act, none of the goods and chattels of the Subtenant on the Demised Premises at any time during the Term shall be exempt from levy by distress for Rent in arrears by the Subtenant as provided for by any sections of the said Act or any amendments thereto, and that if any claim is made for such exemption by the Subtenant or if a distress is made by the Sublandlord, this covenant and agreement may be pleaded as an estoppel against the Subtenant in any action brought to test the right to the levying upon any such goods as are named as exempted in any sections of the said Act or any amendments thereto; the Subtenant waiving, as it hereby does, all and every benefit that could or might have accrued to the Subtenant under any or by virtue of any sections of the said Act, or any amendments thereto but for this covenant. Notwithstanding the foregoing, in the event that CMHC holds Subleasehold title, as Subtenant, this clause will not be enforced.

Section 11.6 Remedies of Sublandlord Cumulative

The remedies of the Sublandlord specified in this Sublease are cumulative and are in addition to any remedies of the Sublandlord at law or equity. No remedy shall be deemed to be exclusive, and the Sublandlord may from time to time have recourse to one or more or all of the available remedies specified herein or at law or equity.

Section 11.7 Obligation to Mitigate

Whether or not the Sublandlord shall repossess the Demised Premises on default of the Subtenant, the Sublandlord shall use reasonable efforts to mitigate its damages.

ARTICLE 12 QUIET ENJOYMENT

Section 12.1 Right of Subtenant

If the Subtenant is not in default with respect to the payment of Rent hereby reserved, which default persists beyond any applicable cure period, the Subtenant shall and may peaceably enjoy and possess the Demised Premises during the Term, without any interruption or disturbance whatsoever from the Sublandlord or any other Person, firm or corporation lawfully claiming from or under the Sublandlord, subject in each case only to the other express provisions of this Sublease.

ARTICLE 13 ESTOPPEL CERTIFICATES

Section 13.1 Estoppel Certificates

Each of the Parties shall, at any time and from time to time during the Term, upon not less than fifteen (15) clear days' prior notice by the other Party, execute, acknowledge and deliver to the other Party a statement in writing certifying whether this Sublease and Contribution Agreement are in good standing, unmodified and in full force and effect, or where requested, that the particular terms thereof have been met or satisfied, as the case may be, or if there have been modifications that the same are in good standing, in full force and effect as modified, stating the

modifications, the dates to which the Rent and other charges, if any, have been paid in advance, the defaults, if any, on the part of the Party requesting such statement known to the Party from whom such statement is requested and the action taken or proposed to be taken by such last-mentioned Party with respect to the same; it being intended that any such statement delivered pursuant to this Article may be relied upon by any prospective purchaser of the Sublandlord's leasehold estate, the Subtenant's Subleasehold estate, any mortgagee of the freehold, any assignee or sublessee of the Subtenant's Subleasehold estate or any Subleasehold mortgagee, as the case may be.

ARTICLE 14 APPROVALS, NOTICES, ETC.

Section 14.1 Approvals

Where by a provision of this Sublease an approval, consent or agreement of a Party (hereinafter individually or collectively referred to as an "Approval") is required, unless the contrary is expressly provided in this Sublease:

- (a) the Party whose Approval is required will, within sixty (60) clear days after receipt of a request for Approval which request shall contain reasonable detail if the circumstances require, give notice to the requesting Party either that it gives its Approval, or that it withholds its Approval, setting forth in reasonable detail its reasons for withholding;
- (b) Notwithstanding any consent or approval given by Sublandlord with respect to any plans, specifications or other construction-related matter, the Sublandlord will not be in any way liable for the design or construction of any proposed structure, and the party that has obtained the consent or approval of the Sublandlord shall be wholly liable for such design and construction.

Section 14.2 Notices

(1) All notices, demands, requests, agreements, consents, approvals and payments (hereinafter, individually or collectively called a "Notice") which may be or are required to be given pursuant to this Sublease shall be in writing and shall be delivered by personal service or facsimile to the following address:

- (a) to the Sublandlord at:

City of Toronto

Metro Hall, 55 John Street, 2nd Floor

Toronto, ON M5V 3C6

Attention: Deputy City Manager – Corporate Services

Fax No: 416-392-1880

with a copy to:

City of Toronto

Metro Hall, 55 John Street 7th Floor

Toronto, ON M5V 3C6

Attention: Executive Director, Housing Secretariat
Fax No: (416) 397-9155

(b) to the Subtenant at:

NAME
[ADDRESS]

Attention: **[NAME, TITLE]**
Email: **[EMAIL]**

Any such notice given as aforesaid shall be deemed to have been effectively given on the next business day following the date of such delivery. Any Party may change its address for service from time to time by notice given in accordance with the foregoing and any subsequent notice shall be sent to the Party at its changed address.

(2) Either party under this Sublease may from time to time by Notice to the other party change its address for service under this Sublease.

ARTICLE 15 GENERAL

Section 15.1 Gender and Number

Words importing the singular shall include the plural and vice versa. Words importing gender shall include all genders.

Section 15.2 Index and Captions

The index and the captions contained in this Sublease are for reference only and in no way affect this Sublease.

Section 15.3 Applicable Law

This Sublease shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein from time to time and shall be treated in all respects as an Ontario Sublease.

Section 15.4 Invalidity

The invalidity or unenforceability of any provision or covenant contained in this Sublease shall not affect the validity or enforceability of any other provision or covenant herein contained and any such invalid provision or covenant shall be deemed to be severable.

Section 15.5 Covenants Independent

Each covenant contained in this Sublease is a separate and independent covenant, and a breach of covenant by any Party will not relieve the other Party from its obligation to perform each of its covenants, except as otherwise expressly provided herein.

Section 15.6 Currency

All reference to currency in this Sublease shall be deemed, unless the context otherwise requires, to be a reference to lawful money of Canada.

Section 15.7 Entire Agreement

This Sublease, the Contribution Agreement, the Headlease and the other agreements specifically referred to herein constitute the entire agreement among the Parties pertaining to the Sublease of the Demised Premises to the Subtenant and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, between the Parties with respect thereto. There are no conditions, warranties, representations or other agreements between the Parties in connection with this Sublease except as specifically set forth herein or in such other agreements.

Section 15.8 Amendments

No supplement, modification, amendment, waiver or termination of this Sublease shall be binding unless executed in writing by the Sublandlord and the Subtenant.

Section 15.9 Non-Waiver

No waiver of any of the provisions of this Sublease shall be deemed to be or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise provided.

Section 15.10 Calculations

Except as otherwise provided herein, all calculations required or permitted under this Sublease shall be made on the basis of generally accepted accounting principles and practices applied on a consistent basis. All calculations made by the Sublandlord under this Sublease shall be final and binding on the parties in the absence of manifest error or fraud.

Section 15.11 Successors and Assigns

All of the provisions of this Sublease shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.

Section 15.12 Excusable Delay

Except as expressly otherwise provided in this Sublease:

(1) if because of an event of Force Majeure, either party is delayed in performing or observing a covenant or in complying with a condition under the terms of this Sublease that party is required to do by a specified date or within a specified period of time or with all due diligence (save and except for the payment of Basic Rent and/or surrender of the Demised Premises on the expiration or earlier termination of the Term); and

(2) if the circumstance is not caused by the default or act of commission or omission of that party nor avoidable by the exercise of reasonable effort or foresight by that party;

then, in that event, the date or period of time by or within which that party is to perform, observe or comply will be extended by a period of time equal to the duration of the delay, provided that nothing excuses a delay dealing with a life and safety issue or excuses the Subtenant from the payment of Basic Rent hereunder when due or payment under the Contribution Agreement.

Section 15.13 Time of Essence

Time shall be of the essence of this Sublease, except as specifically provided otherwise herein.

Section 15.14 Relationship of Parties

This Sublease shall not be deemed to create any relationship between the Parties other than that of Sublandlord and Subtenant as to the Demised Premises. For greater certainty, the Parties agree that they are not partners or joint ventures and that the Subtenant is not the agent or representative of the Sublandlord and has no authority to bind the Sublandlord.

Section 15.15 Continuation of Certain Obligations

Wherever specifically provided for in this Sublease or if it is necessary for the full implementation of any provision of this Sublease, the obligations of a Party shall survive the expiration of the Term or the earlier termination of this Sublease, as the case may be.

Section 15.16 No Voluntary Surrender

The Subtenant shall not have the right to surrender this Sublease without the prior written consent of the Sublandlord.

Section 15.17 Expropriation

In the event of expropriation of the Demised Premises or any part thereof by any lawful power or authority which the Subtenant acknowledges may include the Sublandlord, each of the Sublandlord and the Subtenant shall be entitled to seek compensation for their respective interest so expropriated. In the event of expropriation of all of the Demised Premises, this Sublease and the Term shall be terminated forthwith and thereupon Rent shall be apportioned and paid to the date of termination and the Subtenant shall surrender possession of the Demised Premises and the Demised Premises to the Sublandlord, provided that such termination shall not affect the Subtenant's claim to seek compensation. In calculating any compensation payable to the Subtenant, any secured or unsecured consideration provided to the Subtenant by the Sublandlord in respect of construction of the Demised Premises (the "Sum"), and outstanding amounts payable by the Subtenant to the Sublandlord with respect to this Sublease and the Contribution Agreement which are then due and outstanding shall be deducted from such compensation and paid to the Sublandlord. In determining the amount of the Sum to be included in the amount deducted from the Subtenant's compensation, the Sum shall be present valued as at the day compensation is determined (the "New Sum"), and such New Sum shall be deducted from any compensation payable to the Subtenant.

Section 15.18 Registration of Agreement

The Subtenant shall have the right to register a notice of this Sublease and any Subleasehold Mortgage against title to the Demised Premises. If the Subtenant registers the Sublease, the Subtenant agrees that it will, at its sole expense, discharge and withdraw from title any such registration of the Sublease within thirty (30) days after the termination of this Sublease at the Subtenant's sole cost. If such registration is not discharged or withdrawn within such time, the Sublandlord or the Headlandlord shall have the right and are hereby appointed by the Subtenant as the Subtenant's agent to prepare, execute and register such documentation as is required to discharge and withdraw any such registration (at the Subtenant's cost, to be paid forthwith upon demand). If any part of the Headlandlord Lands which, in the opinion of the Headlandlord are

surplus, is transferred, the Subtenant shall forthwith at the request of the Sublandlord or the Headlandlord discharge or otherwise vacate any such notice or caveat as it relates to such part.

Section 15.19 Rights, Obligations and Capacity of the Sublandlord

All rights and benefits and all obligations of the Sublandlord under this Agreement shall be rights, benefits and obligations of the Sublandlord in its capacity as a party to this Agreement and shall not derogate from or interfere or fetter with the rights, benefits and obligations of the Sublandlord, its Council or its elected and appointed officials and representatives in their respective functions and capacities.

Section 15.20 Administration of Agreement

The Subtenant acknowledges that all references herein to the "Deputy City Manager - Corporate Services" shall mean the Sublandlord's Deputy City Manager - Corporate Services, his/her successor or designate from time to time. The Deputy City Manager - Corporate Services will administer the terms of this Sublease on behalf of the Sublandlord. The Deputy City Manager - Corporate Services shall administer and manage the Sublease including the provision of any consents, approvals, waivers, notices and notices of termination provided that the Deputy City Manager - Corporate Services may, at any time, refer consideration of such matter (including their content) to City Council for its determination and direction.

Section 15.21 Signage

(1) The signage policy for the Demised Premises identifying the, form, type, colour, design, content and location of exterior signs identifying the Demised Premises and any material amendments thereto, together with any exterior canopies and lights, shall be subject to the prior approval of the Sublandlord.

(2) Subtenant shall not erect any signs other than those relating directly to the Demised Premises.

(3) Subtenant shall be responsible for the cost of all signage, canopies and lighting.

Section 15.22 Further Assurances

Each Party agrees to make such further assurances as may be reasonably required from time to time by the other Party to more fully implement the true intent of this Sublease.

Section 15.23 Assignment by the Sublandlord

If the Sublandlord transfers its interest in the Demised Premises and if the transferee executes an assumption of this Sublease and the Contribution Agreement, each in a form and content acceptable to the Subtenant, then the Sublandlord shall be relieved of all liability under this Sublease after the date of such transfer.

Section 15.24 City as Municipal Corporation

(1) Nothing in this Sublease derogates from, interferes with, or fetters the exercise by the City of all of its rights and obligations as a municipality (whether discretionary or mandatory), or imposes any obligations on the City in its role as a municipality, and the City shall not be prevented from or prejudiced in carrying out its statutory rights and responsibilities, including its planning rights and responsibilities. Nothing in this Sublease derogates from, interferes with, or fetters the exercise by the City's officers, employees, agents, representatives or elected and appointed officials of all of their rights, or imposes any obligations on the City's officers, employees, agents, representatives or elected and appointed officials, other than as expressly set out in this Sublease.

(2) No communication or dealing between the Subtenant and any department, committee, body, officer, employee, agent, representative or elected or appointed official of the City that is not clearly in respect of and in accordance with this Sublease will be deemed to be a communication or dealing under this Sublease between the Subtenant and the City as parties to this Sublease, or affect the City with notice of any such communication or dealings. It is intended and agreed that any communication or dealing between the Subtenant and the City as parties to this Sublease will only be effective if delivered in accordance with the notice provisions in this Sublease. No communication or dealing between the City as a party to this Sublease and the Subtenant as a party to this Sublease will relieve from the responsibility of discharging its lawful obligations to the City imposed by statute, regulation, by-law or by any other lawful manner separate and apart from the obligations imposed under this Sublease.

Section 15.25 Arbitration

Where a Party wishes to refer a matter to Arbitration for determination (including for certainty whether the occurrence of a default of Subtenant's obligations under this Sublease has occurred), after a Party gives notice that it is referring such matter to Arbitration for determination (the "**Arbitration Notice**"):

(1) The Parties may, within fifteen (15) days after the delivery of the Arbitration Notice, agree in writing upon the appointment of a single arbitrator who will determine the dispute or matter acting alone, failing which such arbitrator may be appointed by order of the Court in accordance with the applicable legislation in respect of private arbitrations in the Province of Ontario, upon the application of either Party, made on notice to the other Party. The language to be used in the arbitral proceedings shall be English.

(2) Within fifteen (15) days of the appointment of the arbitrator, the Party who delivered the Arbitration Notice (the "**Initiator**") shall deliver to the other Party and to the arbitrator a statement (the "**Statement of Claim**") describing the facts supporting its position, the points at issue and the relief sought. The responding Party shall deliver to the Initiator and to the arbitrator a responding statement within 15 days from the receipt of the Statement of Claim.

(3) Unless expressly agreed to in writing to the contrary, the parties undertake as a general principal to keep confidential all awards in their Arbitration, together with all materials, proceedings and evidence created for the purpose of the Arbitration and all documents produced by any Party in the proceedings not otherwise in the public domain, save and except to the extent that disclosure may be required of a Party by legal duty, to protect or pursue a legal right or to enforce or challenge an award in bona fide legal proceedings before a competent court.

(4) It is the intent of the parties that, barring extraordinary circumstances, the Arbitration proceedings shall be concluded within sixty (60) days from the date the arbitrator is appointed. The parties may agree to extend this time limit or the arbitrator may do so in his or her discretion if he or she determines that the interest of justice so requires. The arbitrator shall use his or her best efforts to issue the final award or awards within fifteen (15) days after closure of the proceedings. Failure to adhere to these time limits will not be a basis for challenging the award.

(5) The determination made by the arbitrator shall be final and binding upon the Sublandlord and the Subtenant. The costs of Arbitration shall be apportioned between the parties hereto as the arbitrator may decide. Neither Party shall be deemed to be in default in respect of the dispute which is subject of the Arbitration so long as the Arbitration is proceeding.

(6) The parties expressly agree that the provisions of the *Municipal Arbitrations Act*, R.S.O. 1990, Chapter M.48 shall not apply at any time to any arbitration whatsoever initiated pursuant to this Sublease. Arbitration initiated pursuant to this Sublease shall proceed in accordance with the provisions of the *Arbitration Act*, 1991, S.O. 1991, Chap. 17.

Section 15.26 Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original and which, taken together, shall constitute one and the same instrument. Each counterpart of this Agreement, and any other document to be delivered by one or more parties under this Agreement, may be executed by electronic signature through a City-Approved Electronic Signature Platform (as defined below), or by handwritten signature delivered to the other party or parties by electronic transmission in PDF format. Any such electronic signature or handwritten signature delivered by electronic transmission shall be valid, binding and enforceable upon the party or parties so executing and/or delivering same electronically to the same extent and shall have the same legal effect as an original signature. If and when one or more parties hereto executes this Agreement by or through a City-Approved Electronic Signature Platform, then such party or parties shall, upon the request of another party hereto, be obliged to forthwith provide the requesting party with a certificate of completion or similar certificate produced or issued by such City-Approved Electronic Signature Platform, which confirms, verifies and/or validates the electronic signature of the party or parties so executing same electronically. For the purposes of this section, "City-Approved Electronic Signature Platform" means DocuSign Inc.'s electronic signing platform or any other similar secure electronic application or platform acceptable to the City in its sole and absolute discretion and "electronic signature" and "electronic" shall have the meanings respectively ascribed to such terms in the *Electronic Commerce Act*, 2000, S.O. 2000, c. 17, as amended.

Section 15.27 Schedules

The following schedules form part of this Sublease:

- Schedule A** - Lands and Demised Premises
- Schedule B** - Sublandlord's Requirements for Subtenant's Work

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Parties have duly executed this Sublease as of the date of this Sublease.

CITY OF TORONTO

per: _____
Name:
Title:

SUBTENANT

per: _____
Name:
Title:

per: _____
Name:
Title:

We have authority to bind the corporation.

SCHEDULE "A"

Lands and Demised Premises

Legal Description of the Lands:

FIRSTLY:

Lands comprising PIN 10029-0166 more particularly described as PT LT 22 EYS Twp. of York, designated as Parts 4-6 on Plan 64R-12369

SECONDLY:

Lands comprising PIN 10029-0059 more particularly described as BLK J PL 5345 North York designated as Part 2 on Plan 66R-31734

Demised Premises:

That part of the Lands comprised of Parts 1 and 2 on Plan 66R-31734 being the area shown outlined in a heavy bold black line on the plan below.

Plan:

[TO BE PROVIDED]

SCHEDULE "B"

Sublandlord's Requirements for Subtenant's Work

The Subtenant shall provide the Sublandlord with such information as is required to obtain the Headlandlord's consent pursuant to the Headlease, and shall pay the Headlandlord's costs in connection with such Work where required under the Headlease.

1. Requirements Prior to the Commencement of the Subtenant's Work

(a) Submission of Plans, Drawings, and Specifications to the City The Subtenant shall, with its application for the Sublandlord's consent for any Subtenant's Work, furnish the Sublandlord with one (1) set of sepias and three (3) white prints of each of its plans and drawings (including the plans and drawings for any exterior signage) together with the specifications, in such detail as the Sublandlord, acting reasonably and having regard to the nature of the work, may require. The said plans, drawings and specifications must **(i)** be prepared by qualified architects, designers and engineers, **(ii)** conform to good engineering practice, and **(iii)** include, if and to the extent applicable to the Subtenant's Work, floor plans, a reflected ceiling plan, wall elevations, sections, details, and sign design drawings and details duly prepared by a qualified designer or architect. The Subtenant will submit for the City's approval, complete mechanical and electrical drawings prepared by persons suitably qualified in the field. Mechanical and electrical drawings, to the extent applicable for the Subtenant's Work, must include all under-floor requirements, all special equipment connections and installations, water and sewage, heating, ventilating and air-conditioning distribution systems, sprinkler mains and runs, electrical diagrams and panel schedules. The Subtenant shall be responsible for any fees incurred by the City or its consultants as a result of the City's review of the Subtenant's plans, drawings and specifications.

(b) City's Approval of Subtenant's Drawings and Specifications - The City will notify the Subtenant within 14 days after receipt of the Subtenant's plans, drawings and specifications, either of its approval or of its disapproval of the Subtenant's plans, drawings and specifications and may indicate any specific changes required by it. The Subtenant will then promptly prepare and submit to the City, within fourteen (14) days following notice of the disapproval, complete drawings and specifications amended as required by the City.

(c) Subtenant's Insurance - Before entering on the Demised Premises for any purpose, the Subtenant will provide the City with a certificate of insurance, duly executed by the Subtenant's insurers, evidencing that the insurance required to be placed by the Subtenant pursuant to the Sublease is in force.

(d) Subtenant's Contractors - The Subtenant will employ a general contractor acceptable to the City, who will be responsible for all construction within the Demised Premises, including the contracting and co-ordination of all trades. For clarity, the Parties agree that it is reasonable for the City to consider compliance with applicable City policies and construction labour obligations in determining whether a general contractor is acceptable. All work on or in respect of the Demised Premises will be performed by such persons as are professionally and technically qualified, careful, skilled and experienced in the duties required of them to perform the work properly, competently and in professional manner to the appropriate highest standards. Prior to undertaking any Work, the Subtenant shall submit a list to the City identifying every contractor, subcontractor, tradesmen, vendor or the Subtenant's own employees (as the case may be) employed or engaged by the Subtenant in connection with the performance of the Work. The Subtenant will not use or permit the use of any contractor, subcontractor, tradesmen, vendor or

employees (as the case may be) that is not identified on the list approved by the Sublandlord, and where required the Headlandlord.

(e) Workplace Safety and Insurance Act Clearances - The Subtenant will provide to the City prior to commencing any Subtenant's Work in respect of the Demised Premises, a current clearance certificate issued pursuant to the Workplace Safety and Insurance Act, 1997 (Ontario) in respect of the contractor and every sub-contractor which the Subtenant proposes to employ or to permit to do work in respect of the Demised Premises and the Subtenant will not permit any contractor or sub-contractors to do work in respect of the Demised Premises except for those for which the clearance certificate has been provided.

(f) Subtenant's Permits - The Subtenant will provide evidence satisfactory to the City prior to commencing any Work in respect of the Demised Premises that the Subtenant has obtained at its expense, all necessary consents, permits, licenses and inspections from all governmental and regulatory authorities having jurisdiction and will post permits when required by law. Should the Subtenant fail to obtain any required consent, permit, license, inspection or certificate, the City may, but will not be obligated to, obtain it on behalf of the Subtenant at the Subtenant's expense.

(g) Letter of Credit, Bonds and Other Information - Prior to commencing construction of any Subtenant's Work with a value of \$500,000.00 or greater, if requested by the City, the Subtenant shall provide to the City a letter of credit in a form satisfactory to the Chief Financial Officer of the City and the City Solicitor in the amount sufficient to secure all such work, as estimated by the Chief Financial Officer on the basis that the City will complete all such work, plus a 10% supervision fee, which letter of credit shall be cancelled the first day of the month next following the expiration of the construction lien period immediately following Completion of the Subtenant's Work. The letter of credit may be drawn upon in the event of a default by the Subtenant in its obligations in respect of the Subtenant's Work. In addition, if requested by the City or the Headlandlord, the Subtenant shall provide proof of performance and payment bonds being in place and a copy of the contracts for the Work.

(h) City and Headlandlord's Approval - For greater certainty, the City or the Headlandlord's approval of any item (including in respect to plans and specifications and/or contractors) shall not cause the City or the Headlandlord to be liable or responsible for the accuracy, correctness or competence of same (such to remain the responsibility and liability of the Subtenant).

2. Requirements With Respect to Performance of the Subtenant's Work

(a) Compliance with Laws, Insurers' and City's Requirements - All Subtenant's Work will comply with all applicable laws, Building codes, permits and approvals for the work and will comply also with the requirements of the City. If the Subtenant is in default of this obligation and does not correct the default within the time period required by the authority or insurer, the City may (but will not be obligated to) cure the default and all charges and costs incurred by the City will be paid to the City by the Subtenant together with an administrative fee equal to fifteen percent (15%) of those charges and costs, as Additional Rent forthwith on demand.

(b) Compliance with the Subtenant's Drawings and Specifications - The Subtenant will, immediately after satisfying all the requirements of Section 1 herein but not before, proceed to complete the Subtenant's Work in a good and workmanlike manner using new materials, the whole of which is to be to the City's satisfaction and in conformity with the plans, drawings and specifications approved by the City, and where applicable the Headlandlord, and any additional conditions, regulations, procedures or rules imposed by the City or the Headlandlord (acting

reasonably). Mediocre or inferior materials or workmanship will be replaced by the Subtenant at its expense by materials or workmanship of first class quality, to the City's satisfaction. One set of the plans, drawings and specifications with the City's consent endorsed on them will remain on the Demised Premises at all times when the Subtenant's Work is being performed.

(c) Compliance with the City's Requirements - The Subtenant will itself and will also cause its contractors to: **(i)** abide by all safety regulations, **(ii)** provide adequate fire protection including, without limitation, fire extinguishers, **(iii)** deliver and store materials and tools as may be directed by the City, **(iv)** stop immediately, if requested by the City, any work which, in the opinion of the City, by reason of public hazard, noise or otherwise, is likely to affect the normal operation of the Demised Premises, the Lands or any part of them, **(v)** maintain the Demised Premises in a tidy, well-ordered and clean condition, free of hazards and excessive accumulations of debris, and **(vi)** abide by all the rules and regulations and requirements established by the City and the Headlandlord from time to time relative to the construction of the Demised Premises, including, without limitation, the City's Fair Wage Policy and Labour Trades Contractual Obligations in the Construction Industry, as applicable, which are subject to amendments and change from time to time. The Subtenant shall provide such evidence of compliance as the City may reasonably request from time to time. The Subtenant shall contact the City's Fair Wage Office prior to commencement of any construction, obtain copies of current policies and applicable information for the purpose of pre-qualifying proposed contractors, as determined by and in accordance with the then-current usual practices for the City's Fair Wage Office and obligations to the City. The Subtenant hereby covenants that it shall adhere to and comply with all collective agreements in the construction industry (under the Labour Relations Act) to which the City is bound (or becomes bound prior to the commencement of any construction). The Subtenant further acknowledges that any violations of any collective agreement may result in grievances being filed against the City and/or applications being made to the Labour Relations Board. The Subtenant agrees to indemnify the City for any costs, damages, losses, awards, settlements and/or legal expenses associated with any violations of any collective agreements to which the City is bound in the construction industry as a result of a breach by the Subtenant of its obligations in this Section, including without limitation, negotiated settlements resulting in payment by the City or any awards against the City resulting from a grievance filed against the City with respect to a breach of any of the collective agreements to which the City is bound in the construction industry. The Subtenant shall pay any such award, settlement, loss and other costs and damages, incurred by the City, within fifteen (15) Business Days of receipt of demand therefore from the City. The Subtenant shall be permitted to attend the mediation and/or hearing of any grievance subject to an order to the contrary by an arbitrator or the Ontario Labour Relations Board hearing the grievance referral, jurisdictional dispute, sector dispute or any other form of proceeding before the Ontario Labour Relations Board. For grievances or other disputes under the Labour Relations Act that are settled by the City prior to or at any point during any grievance or grievance arbitration or referral hearing or other proceeding, the City shall engage and consult with the Subtenant as to the financial terms of settlement, but final determination as to whether a matter is to be settled and the terms of settlement shall remain with the City. All amounts payable by the Subtenant under this Section shall be Additional Rent.

(d) Testing of the Subtenant's Systems – To the extent applicable to the Subtenant's Work, the Subtenant will test all plumbing, gas or fire protection and electrical systems within five (5) days of the installation and give two days' prior written notice to the City that the test will take place. The City will have the right to be present in the Premises when the test is performed. The Subtenant will be responsible for any damage caused as a result of the performance of the test. Following completion of any testing, the Subtenant will provide the City with a copy of the test results and a final certificate or certificates of approval.

(e) Disposal of Waste/Restoration of Lands - The Subtenant shall from time to time, and upon Completion of any work, dispose of all waste, refuse and excess soil off site, restore the Lands to its original condition including relocating trees where feasible, and restore grades in accordance of final approved plans, all to the satisfaction of the DCM.

(f) Headlandlord's Rights, Late Term Alterations - The Headlandlord shall have the right to inspect and/or supervise the performance of the Late Term Alterations (as that term is defined in the Headlease) from time to time as it determines in its sole and absolute discretion, upon 48 hours' prior written notice to the Subtenant and provided that the Headlandlord is accompanied by a representative of the Subtenant and complies with all health and safety policies of the Subtenant and the Subtenant's contractor and their subcontractors.

(f) If the Subtenant fails to observe any of the requirements of this Schedule, the Headlandlord or the Sublandlord may in their sole discretion require that construction stop and, at the Headlandlord or the Sublandlord's option, that the work be corrected forthwith upon demand or the Demised Premises be restored to their prior condition, failing either, the Headlandlord or the Sublandlord may do so and the Subtenant shall pay the cost of so doing plus an administration fee of fifteen percent (15%) of the costs so incurred.

3. Requirements After the Performance of the Subtenant's Work

(a) Subtenant's Declaration - The Subtenant will provide the City, within 60 days after the completion of the Subtenant's Work, with a statutory declaration by a senior officer of the Subtenant (the "Declaration"):

(i) stating that the Subtenant's Work has been performed in accordance with all of the provisions of this Schedule and that all deficiencies (if any) which the City or the Headlandlord has brought to the Subtenant's attention have been corrected;

(ii) stating that there are no construction, builders, workers', workers compensation or other liens and encumbrances affecting the Premises with respect to work, services or materials relating to the Subtenant's Work and that all accounts for work, services and materials have been paid in full with respect to all of the Subtenant's Work and that no notice of dispute of payment (including notice adjudication) has been submitted or received in respect to the Work;

(iii) listing each contractor and sub-contractor who did work or provided materials in connection with the Subtenant's Work;

(iv) confirming the date upon which the last such work was performed and materials were supplied; and

(v) confirming as correct, an itemized list showing the actual cost of all improvements including, without limitation, sprinklers, washrooms, or any other special facilities.

(b) Final Workplace Safety and Insurance Act Clearances - The Subtenant will also furnish to the City, within 60 days after the completion of the Subtenant's Work, a clearance certificate issued under the Workplace Safety and Insurance Act, 1997 (Ontario) in respect of each contractor and sub-contractor listed on the Declaration.

(c) Evidence of Permit Closure - The Subtenant will also furnish to the City, within 60 days

after the completion of the Subtenant's Work, evidence confirming that any permits obtained for the performance of the Work have been closed.